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**ANTI-APARTHEID ACT
AMENDMENTS OF 1988 (H.R. 1580)**

ONE RECORD ONLY:

HEARING

BEFORE THE

**COMMITTEE ON BANKING, FINANCE AND
URBAN AFFAIRS**

HOUSE OF REPRESENTATIVES

ONE-HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 1580

A BILL TO PROHIBIT INVESTMENTS IN, AND CERTAIN OTHER ACTIVITIES WITH RESPECT TO, SOUTH AFRICA, AND FOR OTHER PURPOSES

JUNE 2, 1988

Printed for the use of the Committee on Banking, Finance and Urban Affairs

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(II)

CONTENTS

WITNESSES

	Page
Hearing held on:	
June 2, 1988.....	1
Appendix.....	74

THURSDAY, JUNE 2, 1988

Blakey, Cecelie, political director of TransAfrica.....	64
Freeman, Jr., Charles W., deputy assistant secretary for African Affairs, Department of State.....	63
Wolpe, Hon. Howard, a Representative in Congress from the State of Michi- gan.....	44

APPENDIX

Prepared statements:	
Blakey, Cecelie.....	131
Dellums, Hon. Ronald V.....	75
Freeman, Jr., Charles W.....	112
Garcia, Hon. Robert.....	109
Newcomb, R. Richard.....	119

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Letters of invitation.....	135
Wolpe, Hon. Howard, submitted:	
Brief, South Africa: INTERNATIONAL SACTIONS, updated September 22, 1987.....	84
Paper entitled "SOUTH AFRICA: The Case for Sanctions" dated May 12, 1988.....	140
Report from Securities and Exchange Commission, on analysis of Section 4 of H.R. 1460 the "Anti-Apartheid Act of 1985", with cover letter dated August 22, 1985.....	101

(III)

ANTI-APARTHEID ACT AMENDMENTS OF 1988 (H.R. 1580)

Thursday, June 2, 1988

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:32 a.m., in room 2128, Rayburn House Office Building, Hon. Fernand J. St Germain [chairman of the committee] presiding.

Present: Chairman St Germain, Representatives Gonzalez, Annunzio, Neal, Hubbard, Oakar, Barnard, Morrison, Carper, Torres, Kleczka, Patterson, McMillen, Kennedy, Flake, Price, Pelosi, Wylie, Shumway, Parris, Wortley, Bereuter, Dreier, Hiler, Ridge, Bartlett, Saxton, Saiki, and Bunning.

The CHAIRMAN. The committee will come to order.

Almost 2 years ago to the day this committee opened hearings on legislation designed to pressure the South African Government into abandoning its repugnant policy of apartheid. The legislation, the "Comprehensive Anti-Apartheid Act of 1986," became law. Unfortunately, the South African Government has refused to meet the law's criteria for significant progress toward ending apartheid.

Today the committee holds hearings on H.R. 1580, "The Anti-Apartheid Act Amendments of 1988," which is designed to strengthen the existing economic and political sanctions imposed under the 1986 law and thus further pressure the South African Government.

As it has in the past, the administration continues to object to sanctions on South Africa. We hear much rhetoric about the administration's policy of "constructive engagement" with South Africa, but ask any South African black if things have changed. For this reason, legislation remains crucial.

H.R. 1580, introduced by our colleague from California, Ronald Dellums, and reported by the Foreign Affairs Committee on May 20, enacts six new sanctions against South Africa. Two of these are of particular concern to the Banking Committee: the ban on all U.S. investment in South Africa and the ban on most imports.

The existing law bans all loans to the South African Government or to any organization owned or controlled by the government. The bill before us today would extend this prohibition to a business enterprise located in South Africa or one owned or controlled by South African nationals. The existing law prohibits U.S. citizens or entities from making any new investment in South Africa, while

H.R. 1580 prohibits these groups from making or holding any investment in South Africa. These investments must be divested.

The legislation reported by the Foreign Affairs Committee provides that the President may grant a one-time 6-month waiver from this prohibition on a case-by-case basis. The new bill also redefines loans to include letters of credit of similar short-term trade financing, sales on open accounts, and rescheduling of existing loans.

While the importation of Kruggerands was prohibited by the 1986 law, H.R. 1580 expands the prohibition to cover all other imports except for strategic minerals, publications, and imports from black or nonwhite businesses. H.R. 1580 retains the provision in the 1986 law requiring the Export-Import Bank to encourage the use of its facilities by nonwhite-owned businesses in South Africa.

The Banking Committee has long endorsed efforts to increase the pressure on the repressive regime of South Africa. In 1983, we insisted that legislation authorizing U.S. contributions to the IMF include language that would require that our representative to the IMF actively oppose assistance to any country practicing apartheid. In 1983 and 1985, this committee also indicated its approval of legislation which would increase economic pressures on South Africa in the hope that these pressures would force a change in Pretoria's policies and would lead to good-faith negotiations with the country's blacks.

Today we are showing our support for H.R. 1580, which will hit the South African Government in the pocketbook, where it hurts.
[The text of H.R. 1580 follows.]

100TH CONGRESS
2D SESSION

H. R. 1580

[Report No. 100-642, Part I]

To prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1987

Mr. DELLUMS (for himself, Mr. ACKERMAN, Mr. ATKINS, Mr. BATES, Mr. BONIOR of Michigan, Mr. BROWN of California, Mr. BERMAN, Mr. CLAY, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. CROCKETT, Mr. DE LUGO, Mr. DOWNEY of New York, Mr. DYMALLY, Mr. DYSON, Mr. EDWARDS of California, Mr. EVANS, Mr. ESPY, Mr. FAUNTROY, Mr. FLAKE, Mr. FOGLETTA, Mr. FORD of Tennessee, Mr. FRANK, Mr. GARCIA, Mr. GRAY of Illinois, Mr. GRAY of Pennsylvania, Mr. HOYER, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. JACOBS, Mr. KASTENMEIER, Mr. KOSTMAYER, Mr. LELAND, Mr. LOWEY of Washington, Mr. LEVIN of Michigan, Mr. LEWIS of Georgia, Mr. THOMAS A. LUKEN, Mr. MARTINEZ, Mr. MARKEY, Mr. MFUMS, Mr. MORRISON of Connecticut, Mr. ORRSTAR, Mr. OWENS of New York, Mr. RANGEL, Mr. RAHALL, Mr. RODINO, Mr. SAVAGE, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. UDALL, Mr. WEISS, and Mr. WHEAT) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs, Ways and Means, Armed Services, Banking, Finance and Urban Affairs, Public Works and Transportation, and the Permanent Select Committee on Intelligence

MARCH 30, 1988

Additional sponsors: Mr. TRAXLER, Mr. MILLER of California, Mr. LEVINE of California, Mr. DIXON, Mr. COELHO, Mr. GEJDENSON, Mr. MINETA, Mr. TOWNS, Mr. SIKORSKI, Mr. KENNEDY, Ms. PELOSI, Mr. OWENS of Utah, Mr. SOLARE, Mr. MAVROULES, Mr. CAMPBELL, Mr. BRENNAN, Mr. WISE, Mr. BUSTAMANTE, Mr. KILDEE, Mr. MATSUI, Mrs. SCHBORDER, Mr. FAZIO, Mr. FEIGHAN, Ms. OAKAR, Mr. WAXMAN, Mr. LANTOS, Mr. DONNELLY, Mr. DEFazio, Mr. TORRES, Mr. ST GERMAIN, Mrs. BOXER, Mr. CARDIN, Mr. BOBSKI, Mr. SABO, Mr. LEHMAN of Florida, Mr. PANETTA, Mr. BRUCE, Mr. SCHUBERT, Mr. AKAKA, Mr. MOAKLEY, Mrs. BOGGS, Mr. SHAYS, and Mr. YATES

MAY 20, 1988

Reported from the Committee on Foreign Affairs, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 10, 1988

Additional sponsors: Mr. ROYBAL, Mr. PEASE, Mr. PEPPER, Mr. SCHUMER, Mr. TRAFICANT, Mr. DOWDY of Mississippi, Mr. GILMAN, Ms. KAPTUR, Mr. GONZALEZ, Mr. MOODY, Miss SCHNEIDER, Mrs. MORELLA, Mr. BIAGGI, Mr. NAGLE, Ms. SLAUGHTER of New York, Mrs. KENNELLY, Mr. HOCHBREUCKNER, Mr. SYNAR, Mr. AUCOIN, Mr. ORTIZ, Mr. FORD of Michigan, Mr. RICHARDSON, Mr. ROBINSON, Mr. MACKAY, and Mr. GEPHARDT

JUNE 10, 1988

Referred to the Committee on Interior and Insular Affairs, for a period ending not later than three legislative days after the final committee receiving joint referral of the bill reports it, for consideration of that portion of section 3 of the amendment reported from the Committee on Foreign Affairs which adds a new section 304(b) to the Comprehensive Anti-Apartheid Act of 1986 and falls within the jurisdiction of that committee pursuant to clause 1(1), rule X, and ordered to be printed

A BILL

To prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 **SECTION 1. PROHIBITION ON INVESTMENTS IN SOUTH**
 4 **AFRICA.**

5 **A United States person may not, directly or through a**
 6 **foreign affiliate of that United States person, make or hold**
 7 **any investment in South Africa.**

1 **SEC. 2. PROHIBITION ON IMPORTS AND EXPORTS FROM**
2 **SOUTH AFRICA.**

3 (a) **IMPORTS.**—Notwithstanding any other provision of
4 law, no article which is the growth, produce, or manufacture
5 of South Africa may be imported into the United States,
6 except for any strategic mineral with respect to which the
7 President certifies to the Congress that the quantities of such
8 mineral which are essential for military uses exceed reason-
9 ably secure domestic supplies and that substitutes for such
10 mineral are not available.

11 (b) **EXPORTS.**—

12 (1) **GENERAL BULB.**—No goods, technology, or
13 other information subject to the jurisdiction of the
14 United States may be exported to South Africa, and no
15 goods, technology, or other information may be export-
16 ed to South Africa by any person subject to the juris-
17 diction of the United States. The prohibition contained
18 in this paragraph shall apply to goods, technology, or
19 other information of any kind, which is subject to con-
20 trols under the Export Administration Act of 1970, the
21 Arms Export Control Act, the Atomic Energy Act of
22 1954, or any other provision of law.

23 (2) **EXCEPTION.**—The prohibition contained in
24 paragraph (1) shall not apply to exports described in
25 section 6(g) of the Export Administration Act of 1970.

1 **SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.**
2

3 (a) **PROHIBITION.**—The Secretary of Transportation
4 shall prohibit the takeoff and landing of any aircraft by a
5 foreign air carrier owned, directly or indirectly, by the Gov-
6 ernment of South Africa or by South African nationals.

7 (b) **EXCEPTIONS FOR EMERGENCIES.**—The Secretary
8 of Transportation may provide for such exceptions from the
9 prohibition set forth in subsection (a) as the Secretary consid-
10 ers necessary to provide for emergencies in which the safety
11 of an aircraft or its crew or passengers is threatened.

12 (c) **DEFINITIONS.**—For purposes of this section, the
13 terms "aircraft" and "foreign air carrier" have the meanings
14 given those terms in section 101 of the Federal Aviation Act
15 of 1958.

16 **SEC. 4. PROHIBITION ON IMPORTATION OF KRUGERRANDS.**

17 No person may import into the United States any South
18 African krugerrand or any other gold coin minted in South
19 Africa or offered for sale by the Government of South Africa.

20 **SEC. 5. GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS.**

21 No United States depository institution may accept, re-
22 ceive, or hold a deposit account from the Government of
23 South Africa or from any agency or entity owned or con-
24 trolled by the Government of South Africa except for such
25 accounts which may be authorized by the President for diplo-
26 matic or consular purposes. For purposes of the preceding

1 sentence, the term "depository institution" has the same
2 meaning as in section 19(b)(1) of the Federal Reserve Act.

3 **SEC. 6. PROHIBITION ON UNITED STATES MILITARY OR IN-**
4 **TELLIGENCE COOPERATION WITH GOVERN-**
5 **MENT OF SOUTH AFRICA.**

6 (a) **MILITARY COOPERATION.**—No agency or entity of
7 the United States may engage in any form of cooperation,
8 direct or indirect, with the armed forces of the Government
9 of South Africa.

10 (b) **INTELLIGENCE COOPERATION.**—No agency or
11 entity of the United States involved in intelligence activities
12 may engage in any form of cooperation, direct or indirect,
13 with the Government of South Africa.

14 **SEC. 7. LIMITATION ON IMPORTS FROM OTHER COUNTRIES.**

15 The President is authorized to limit the importation into
16 the United States of any product or service of a foreign coun-
17 try to the extent to which such foreign country benefits from,
18 or otherwise takes commercial advantage of, any prohibition
19 imposed by or under this Act.

20 **SEC. 8. ENFORCEMENT; PENALTIES.**

21 (a) **AUTHORITIES OF THE PRESIDENT.**—The President
22 shall take the necessary steps to ensure compliance with the
23 provisions of this Act and any regulations, licenses, and
24 orders issued to carry out this Act, including establishing
25 mechanisms to monitor compliance with such provisions, reg-

1 ulations, licenses, and orders. In ensuring such compliance,
 2 the President may conduct investigations, hold hearings, ad-
 3 minister oaths, examine witnesses, receive evidence, take
 4 depositions, and require by subpoena the attendance and tes-
 5 timony of witnesses and production of all books, papers, and
 6 documents relating to any matter under investigation.

7 (b) VIOLATIONS.—Any person that knowingly violates
 8 the provisions of this Act or any regulation, license, or order
 9 issued to carry out this Act shall—

10 (1) if other than an individual, be fined not more
 11 than \$500,000; and

12 (2) if an individual, be fined not more than
 13 \$250,000, or imprisoned not more than 5 years, or
 14 both.

15 (c) ADDITIONAL PENALTIES FOR CERTAIN INDIVID-
 16 UALS.—

17 (1) IN GENERAL.—Whenever a person commits a
 18 violation under subsection (b)—

19 (A) any officer, director, or employee of such
 20 person, or any natural person in control of such
 21 person who willfully ordered, authorized, acqui-
 22 esced in, or carried out the act or practice consti-
 23 tuting the violation; and

24 (B) any agent of such person who willfully
 25 carried out such act or practice;

1 shall, upon conviction, be fined not more than
2 \$250,000, or imprisoned not more than 5 years, or
3 both.

4 (2) ~~RESTRICTION OF PAYMENT OF FINES.~~—A
5 fine imposed under paragraph (1) on an individual for
6 an act or practice constituting a violation may not be
7 paid, directly or indirectly, by the person committing
8 the violation itself.

9 (d) ~~SEIZURE AND FORFEITURE OF AIRCRAFT.~~—Any
10 aircraft used in connection with a violation of section 2 or
11 any regulation, license, or order issued to carry out that sec-
12 tion shall be subject to seizure by and forfeiture to the United
13 States. All provisions of law relating to the seizure, forfeit-
14 ure, and condemnation of articles for violations of the cus-
15 toms laws, the disposition of such articles or the proceeds
16 from the sale thereof, and the remission or mitigation of such
17 forfeitures shall apply to the seizures and forfeitures incurred,
18 or alleged to have been incurred, under the provisions of this
19 subsection, insofar as such provisions of law are applicable
20 and not inconsistent with the provisions of this Act; except
21 that all powers, rights, and duties conferred or imposed by
22 the customs laws upon any officer or employee of the Depart-
23 ment of the Treasury shall, for purposes of this subsection, be
24 exercised or performed by the Secretary of Transportation or
25 by such persons as the Secretary may designate.

1 **SEC. 9. REGULATORY AUTHORITY.**

2 The President may issue such regulations, licenses, and
3 orders as are necessary to carry out this Act.

4 **SEC. 10. DEFINITIONS.**

5 For purposes of this Act—

6 (1) **UNITED STATES.**—The term “United States”
7 includes the States of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, and any
9 territory or possession of the United States.

10 (2) **UNITED STATES PERSON.**—The term “United
11 States person” means—

12 (A) any United States resident or national;
13 and

14 (B) any partnership, corporation, or other
15 entity organized under the laws of the United
16 States or of any of the several States, of the Dis-
17 trict of Columbia, or of any commonwealth, terri-
18 tory, or possession of the United States.

19 (3) **INVESTMENT IN SOUTH AFRICA.**—The term
20 “investment in South Africa” means—

21 (A) a commitment of funds or other assets (in
22 order to earn a financial return) to the Govern-
23 ment of South Africa or to a business enterprise
24 located in South Africa or owned or controlled by
25 South African nationals, including—

1 (ii) a loan or other extension of credit
2 made to the Government of South Africa or
3 to such a business enterprise, or security
4 given for the debts of the Government of
5 South Africa or such a business enterprise;

6 (ii) the beneficial ownership or control
7 of a share or interest in such a business en-
8 terprise, or of a bond or other debt instru-
9 ment issued by the Government of South
10 Africa or such a business enterprise; or

11 (iii) capital contributions in money or
12 other assets to such a business enterprise; or

13 (B) the control of a business enterprise locat-
14 ed in South Africa or owned or controlled by
15 South African nationals, in cases in which sub-
16 paragraph (A) does not apply.

17 (4) ~~SOUTH AFRICA.~~—The term "South Africa"
18 includes—

19 (A) the Republic of South Africa;

20 (B) Namibia and any other territory under
21 the administration, legal or illegal, of South
22 Africa; and

23 (C) the "bantustans" or "homelands", to
24 which South African blacks are assigned on the

1 basis of ethnic origin, including the Transkei, Bo-
2 phuthatswana, Ciskei, and Venda.

3 (5) **BUSINESS ENTERPRISE.**—The term “business
4 enterprise” means any organization, association,
5 branch, or venture which exists for profitmaking pur-
6 poses or to otherwise secure economic advantage, and
7 any corporation, partnership, or other organization
8 which is owned or controlled by the Government of
9 South Africa.

10 (6) **BRANCH.**—The term “branch” means the op-
11 erations or activities conducted by a person in a differ-
12 ent location in its own name rather than through a
13 separate incorporated entity.

14 (7) **FOREIGN AFFILIATE.**—A “foreign affiliate” of
15 a United States person is a business enterprise located
16 in a foreign country, including a branch, which is con-
17 trolled by that United States person.

18 (8) **SOUTH AFRICAN NATIONAL.**—The term
19 “South African national” means—

20 (A) a citizen of South Africa; and

21 (B) any partnership, corporation, or other
22 entity organized under the laws of South Africa.

23 (9) **CONTROL BY SOUTH AFRICAN NATIONALS.**—

24 For purposes of paragraphs (2) and (7), a business en-
25 terprise shall be presumed to be controlled by a United

1 States person or by South African nationals (as the
2 case may be) if—

3 (A) the United States person or South Afri-
4 can nationals beneficially own or control (whether
5 directly or indirectly) more than 50 percent of the
6 outstanding voting securities of the business
7 enterprise;

8 (B) the United States person or South Afri-
9 can nationals beneficially own or control (whether
10 directly or indirectly) 25 percent or more of the
11 voting securities of the business enterprise, if no
12 other person owns or controls (whether directly or
13 indirectly) an equal or larger percentage;

14 (C) the business enterprise is operated by the
15 United States person or South African nationals
16 pursuant to the provisions of an exclusive man-
17 agement contract;

18 (D) a majority of the members of the board
19 of directors of the business enterprise are also
20 members of the comparable governing body of the
21 United States person or a South African national;

22 (E) the United States person or South Afri-
23 can nationals have the authority to appoint a ma-
24 jority of the members of the board of directors of
25 the business enterprise; or

1 ~~(F)~~ the United States person or South Afri-
 2 can nationals have the authority to appoint the
 3 chief operating officer of the business enterprise.

4 **SEC. 11. APPLICABILITY TO EVASIONS OF ACT.**

5 This Act shall apply to any person who undertakes or
 6 causes to be undertaken any transaction or activity with the
 7 intent to evade the provisions of this Act or any regulation,
 8 license, or order issued to carry out this Act.

9 **SEC. 12. REPEAL OF COMPREHENSIVE ANTI-APARTHEID ACT**
 10 **OF 1986.**

11 ~~(a) REPEAL OF ACT.~~—The Comprehensive Anti-Apart-
 12 heid Act of 1986 (Public Law 99-440), and all regulations,
 13 licenses, and orders issued to carry out that Act, are hereby
 14 repealed.

15 ~~(b) REPEAL OF AMENDMENTS MADE BY THAT ACT.~~—

16 ~~(1)~~ Section 105(b) of the Foreign Assistance Act
 17 of 1961 is amended—

18 ~~(A)~~ by striking out “(1)” after “(b)”; and

19 ~~(B)~~ by striking out paragraph (2).

20 ~~(2)~~ Chapter 1 of part I of the Foreign Assistance
 21 Act of 1961 is amended—

22 ~~(A)~~ in section 116—

23 ~~(i)~~ in subsection ~~(c)(2)(A)~~ by striking out
 24 “1984,” and inserting in lieu thereof “1984
 25 and”;

1 (ii) in subsection (a)(2)(A) by striking out
2 “, and \$1,500,000 for the fiscal year 1986
3 and for each fiscal year thereafter”; and

4 (iii) by striking out subsection (f); and
5 (B) by striking out section 117.

6 (2) Chapter 4 of part II of the Foreign Assistance
7 Act of 1961 is amended by striking out section 535.

8 (4) Section 2(b)(9) of the Export-Import Bank Act
9 of 1945 is amended—

10 (A) by striking out “(9)(A) Except as provid-
11 ed in subparagraph (B), in” and inserting in lieu
12 thereof “(9) In”; and

13 (B) by striking out subparagraph (B).

14 (c) **TRANSITION PROVISION.**—The repeal contained in
15 subsection (a) shall not affect any proceeding to impose a
16 penalty under section 603 of the Comprehensive Anti-Apart-
17 heid Act of 1986 for violations of that Act (or any regulation,
18 license or order issued to carry out that Act) occurring before
19 the date on which this Act takes effect.

20 **SEC. 12. EFFECTIVE DATE.**

21 This Act and the amendments made by this Act take
22 effect 180 days after the date of the enactment of this Act.

23 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

24 (a) **SHORT TITLE.**—This Act may be cited as the
25 “Anti-Apartheid Act Amendments of 1988”.

1 (b) *REFERENCES.—References in this Act to “the Act”*
 2 *are to the Comprehensive Anti-Apartheid Act of 1986.*

3 (c) *TABLE OF CONTENTS.—*

- Sec. 1. Short title; references; table of contents.*
- Sec. 2. Prohibitions on investment and trade.*
- Sec. 3. Prohibition regarding involvement in the South African energy sector.*
- Sec. 4. Prohibition on nuclear assistance to South Africa.*
- Sec. 5. Prohibition on United States intelligence and military cooperation with South Africa.*
- Sec. 6. Multilateral measures to undermine apartheid.*
- Sec. 7. Coordinator of South Africa sanctions; Inter-Agency Coordinating Committee on South Africa.*
- Sec. 8. Independence of Namibia.*
- Sec. 9. Report on program to reduce dependence upon importation of strategic minerals from South Africa.*
- Sec. 10. Penalties.*
- Sec. 11. Assistance for disadvantaged South Africans.*
- Sec. 12. Sense of Congress regarding antitrust investigation of South African diamond cartel and study of diamond origins.*
- Sec. 13. Study of measures to reduce South Africa's foreign exchange earnings from gold.*
- Sec. 14. Sense of Congress regarding South African consulates and approval of visas.*
- Sec. 15. Report on South Africa's involvement in international terrorism.*
- Sec. 16. Technical and conforming amendments.*
- Sec. 17. Effective date.*

4 **SEC. 2. PROHIBITIONS ON INVESTMENT AND TRADE.**

5 (a) *PROHIBITIONS ON INVESTMENT AND TRADE.—*

6 *Effective 180 days after the date of the enactment of this Act,*
 7 *sections 301, 302, and 303 of the Comprehensive Anti-*
 8 *Apartheid Act of 1986 (hereafter in this Act referred to as*
 9 *“the Act”) are amended to read as follows:*

10 **“PROHIBITION ON INVESTMENT IN SOUTH AFRICA**

11 **“SEC. 301. A United States person may not purchase,**
 12 *acquire, own, or hold any investment in South Africa.*

1 **"PROHIBITION ON IMPORTS INTO THE UNITED STATES**
2 **FROM SOUTH AFRICA**

3 **"SEC. 302. (a) No article which is grown, produced,**
4 **extracted, or manufactured in South Africa may be imported**
5 **into the United States.**

6 **"(b) The prohibition of subsection (a) shall not apply to**
7 **the import of—**

8 **"(1) any strategic mineral (including any ferroal-**
9 **loy thereof) with respect to which the President certifies**
10 **to the Congress that the quantities of such mineral**
11 **which are essential for the economy or defense of the**
12 **United States are not available from alternative reli-**
13 **able suppliers and that such needs cannot be met in a**
14 **timely manner by improved manufacturing processes,**
15 **conservation, recycling, and economical substitution;**
16 **and**

17 **"(2) publications.**

18 **"(c) The prohibition under subsection (a) shall not**
19 **apply to imports from business enterprises in South Africa**
20 **that are wholly-owned by black and other nonwhite South**
21 **Africans.**

22 **"(d) The prohibition under subsection (a) includes—**

23 **"(1) uranium hexafluoride that has been manu-**
24 **factured from South African uranium or uranium**
25 **oxide; and**

1 “(2) fish or seafood—

2 “(A) purchased from a ship owned by a
3 South African or of South African registry;

4 “(B) purchased from a South African;

5 “(C) processed in whole or part by a South
6 African ship or person; or

7 “(D) stored in or shipped from South Africa.

8 **“PROHIBITION OF EXPORTS TO SOUTH AFRICA FROM THE**
9 **UNITED STATES**

10 **“SEC. 303. (a) No goods or technology subject to the**
11 **jurisdiction of the United States may be exported, or re-ex-**
12 **ported, to South Africa. No goods or technology may be ex-**
13 **ported, or re-exported, to South Africa by any person subject**
14 **to the jurisdiction of the United States.**

15 **“(b) The prohibitions under subsection (a) shall not**
16 **apply to—**

17 **“(1) publications;**

18 **“(2) donations of articles intended to relieve**
19 **human suffering, such as food, clothing, and medicine**
20 **and medical supplies intended strictly for medical pur-**
21 **poses; and**

22 **“(3) commercial sales of agricultural commodities**
23 **and products.**

24 **“(c) The prohibitions under subsection (a) shall not**
25 **apply to any goods that are the direct product of technology of**
26 **United States origin under a written agreement entered into**

1 *on or before April 20, 1988, and that are exported prior to*
 2 *the date which is one year after the date of the enactment of*
 3 *the Anti-Apartheid Act Amendments of 1988.*

4 *“(d) The prohibitions under subsection (a) shall not*
 5 *apply to—*

6 *“(1) economic assistance or human rights pro-*
 7 *grams for disadvantaged South Africans, South Afri-*
 8 *can blacks or other nonwhite South Africans, or vic-*
 9 *tims of apartheid in South Africa pursuant to the For-*
 10 *oreign Assistance Act of 1961, the Export-Import Bank*
 11 *Act of 1945, or any other provision of law authorizing*
 12 *economic or human rights assistance programs; and*

13 *“(2) contributions to charitable organizations en-*
 14 *gaged in social welfare, public health, religious, educa-*
 15 *tional, and emergency relief activities in South*
 16 *Africa.”.*

17 *(b) WAIVER.—A person affected by the prohibition*
 18 *under section 301 of the Comprehensive Anti-Apartheid Act*
 19 *of 1986 (as amended by subsection (a)) may apply to the*
 20 *President for a one-time waiver of the prohibition. With re-*
 21 *spect to any applicant, the President may waive the applica-*
 22 *tion of section 301 for not more than 180 days after such*
 23 *section takes effect. Such waiver may be granted only for*
 24 *good cause. During any period of waiver under this subpara-*
 25 *graph, the provisions of the Comprehensive Anti-Apartheid*

1 *Act of 1986 as in effect before the date of the enactment of the*
 2 *Anti-Apartheid Act Amendments of 1988 shall apply and the*
 3 *President may not waive any such provision.*

4 (c) *REPEAL OF CERTAIN PROVISIONS OF THE ACT.—*
 5 *Effective 180 days after the date of the enactment of this Act,*
 6 *the Comprehensive Anti-Apartheid Act of 1986 is amended*
 7 *by striking sections 212, 304, 309, 310, 317, 318, 319, 320,*
 8 *321, and 323.*

9 (d) *DEFINITIONS.—*

10 (1) *Paragraphs (3) and (4) of section 3 of the Act*
 11 *are amended to read as follows:*

12 “(3) *the term ‘loan’—*

13 “(A) *means any transfer or extension of*
 14 *funds or credit on the basis of an obligation to*
 15 *repay, or any assumption or guarantee of the obli-*
 16 *gation of another to repay an extension of funds*
 17 *or credit, including—*

18 “(i) *overdrafts;*

19 “(ii) *currency swaps;*

20 “(iii) *the purchase of debt or equity se-*
 21 *curities issued by the Government of South*
 22 *Africa or a South African entity on or after*
 23 *the date of enactment of this Act;*

24 “(iv) *the purchase of a loan made by*
 25 *another person;*

1 “(v) the sale of financial assets subject
2 to an agreement to repurchase;

3 “(vi) a renewal or refinancing whereby
4 funds or credits are transferred or extended
5 to the Government of South Africa or a
6 South African entity;

7 “(vii) short-term trade financing, as by
8 letters of credit or similar trade credits;

9 “(viii) sales on open account in cases
10 where such sales are normal business prac-
11 tice; and

12 “(ix) rescheduling of existing loans; and

13 “(B) does not include, a loan for which an
14 agreement was entered into before April 20, 1988,
15 so long as such a loan is maintained under the
16 terms in effect on such date.

17 “(4) the term ‘investment in South Africa’
18 means—

19 “(A) a commitment of funds or other assets
20 (in order to earn a financial return) to a South
21 African entity, including—

22 “(i) a loan or other extension of credit
23 made to a South African entity, or security
24 given for the debts of an entity;

1 “(ii) the beneficial ownership or control
2 of a share or interest in a South African
3 entity, or of a bond or other debt instrument
4 issued by such an entity; or

5 “(iii) capital contributions in money or
6 other assets to a South African entity; or

7 “(B) the control of a South African entity in
8 cases in which subparagraph (A) does not
9 apply.”.

10 (2) Section 3 of the Act is further amended by—

11 (A) striking “and” after the semicolon in
12 paragraph (8)(B);

13 (B) striking the period at the end of para-
14 graph (9) and inserting a semicolon; and

15 (C) adding at the end of such section the
16 following:

17 “(10) the terms ‘United States person’ and
18 ‘person subject to the jurisdiction of the United States’
19 mean—

20 “(A) any person, wherever located, who is a
21 citizen or resident of the United States;

22 “(B) any person actually within the United
23 States;

24 “(C) any corporation organized under the
25 laws of the United States or of any State, terri-

1 *tory, possession, or district of the United States;*
2 *and*

3 *“(D) any partnership, association, corpora-*
4 *tion, or other organization, wherever organized or*
5 *doing business, that is owned or controlled by per-*
6 *sons specified in subparagraphs (A), (B), or (C)*
7 *of this paragraph;*

8 *“(11) the terms ‘goods’ and ‘technology’ have the*
9 *meanings given such terms by section 16 of the Export*
10 *Administration Act of 1979;*

11 *“(12) the term ‘goods subject to the jurisdiction of*
12 *the United States’ includes goods that are the direct*
13 *product of technology of United States origin; and*

14 *“(13) the term ‘foreign person’—*

15 *“(A) means any person who is not a United*
16 *States person or subject to the jurisdiction of the*
17 *United States, and*

18 *“(B) does not include any government or*
19 *any agency or other entity or instrumentality*
20 *thereof (including a government-sponsored agency)*
21 *unless any such agency, entity, or instrumentality*
22 *is a business enterprise.”.*

23 *(3) The amendments made by this subsection*
24 *shall take effect 180 days after the date of the enact-*
25 *ment of this Act.*

1 (e) *NEGOTIATIONS WITH EMPLOYEE ORGANIZA-*
2 *TIONS REGARDING TERMINATION OF INVESTMENT.—A*
3 *controlled South African entity, subject to the investment*
4 *prohibition under section 301 of the Comprehensive Anti-*
5 *Apartheid Act of 1986 (as amended by subsection (a)), that*
6 *employs more than 24 South Africans—*

7 (1) *shall notify all South African employees and*
8 *their employee organizations of such termination of in-*
9 *vestment not less than 90 days prior to such termina-*
10 *tion; and*

11 (2) *shall enter into good faith negotiations with*
12 *representative trade unions, particularly those repre-*
13 *senting disadvantaged South Africans (or with other*
14 *representative worker organizations if there are no such*
15 *unions) regarding the terms of a termination.*

16 *Negotiations shall include discussions and agreements con-*
17 *cerning pension benefits; relocation of employees; continu-*
18 *ation of existing union recognition agreements; severance*
19 *pay; and acquisition of the terminated business or the busi-*
20 *ness assets by representative trade unions, union-sponsored*
21 *workers' trusts, other representative worker organizations, or*
22 *employees.*

1 **SEC. 3. PROHIBITION REGARDING INVOLVEMENT IN THE SOUTH**
 2 **AFRICAN ENERGY SECTOR.**

3 *The Act is amended by adding after section 303 (as*
 4 *amended by section 2 of this Act) the following new section*
 5 *304:*

6 **"RESTRICTIONS REGARDING INVOLVEMENT IN THE**
 7 **SOUTH AFRICAN ENERGY SECTOR**

8 *"SEC. 304. (a) A United States person may not, direct-*
 9 *ly or through an affiliate, provide transport to South Africa*
 10 *of a commercial quantity of crude oil or refined petroleum*
 11 *products. The prohibition under this subsection includes*
 12 *transport on a vessel of United States registry and transport*
 13 *on a vessel owned, directly or indirectly, by a United States*
 14 *person.*

15 *"(b)(1) The Secretary of the Interior may not issue any*
 16 *lease pursuant to the Mineral Leasing Act of 1920, the Min-*
 17 *eral Leasing Act for Acquired Lands, the Outer Continental*
 18 *Shelf Lands Act, or the Geothermal Steam Act of 1970 to*
 19 *any national of the United States which is controlled by, or*
 20 *under common control with, any foreign person who—*

21 *"(A) purchases, acquires, owns, or holds any in-*
 22 *vestment in South Africa; or*

23 *"(B) exports to South Africa, directly or indi-*
 24 *rectly, any crude oil or refined petroleum products.*

25 *"(2) Prior to issuing any lease referred to in paragraph*
 26 *(1), the Secretary of the Interior shall require an applicant*

1 *for such a lease to certify that the applicant is not subject to*
 2 *the provisions of paragraph (1).”.*

3 **SEC. 4. PROHIBITION ON NUCLEAR ASSISTANCE TO SOUTH**
 4 **AFRICA.**

5 *Section 307 of the Act is amended to read as follows:*

6 **“PROHIBITION ON NUCLEAR ASSISTANCE TO SOUTH**
 7 **AFRICA**

8 *“SEC. 307. Notwithstanding any other provision of*
 9 *law, the Secretary of Energy shall not, under section 57 b.*
 10 *(2) of the Atomic Energy Act of 1954, authorize any person*
 11 *to engage, directly or indirectly, in the production of special*
 12 *nuclear material in South Africa.”.*

13 **SEC. 5. PROHIBITION ON UNITED STATES INTELLIGENCE AND**
 14 **MILITARY COOPERATION WITH SOUTH AFRICA.**

15 *The Act is amended by striking section 322 and adding*
 16 *after section 308 the following new section:*

17 **“PROHIBITION ON UNITED STATES INTELLIGENCE AND**
 18 **MILITARY COOPERATION WITH SOUTH AFRICA**

19 *“SEC. 309. (a) No agency or entity of the United*
 20 *States involved in intelligence activities may engage in any*
 21 *form of cooperation, direct or indirect, with the Government*
 22 *of South Africa (specifically including the authorities admin-*
 23 *istering Namibia so long as Namibia is illegally occupied).*
 24 *The cooperation prohibited by this subsection specifically in-*
 25 *cludes any activity relating to the collection of intelligence,*

1 *including the exchange of intelligence either directly or*
 2 *through a third country.*

3 “(b) No agency or entity of the United States may
 4 engage in any form of cooperation, direct or indirect, with the
 5 armed forces of the Government of South Africa.

6 “(c) Funds authorized to be appropriated or otherwise
 7 made available by the Congress (including funds specified in
 8 a classified schedule of authorizations or appropriations) may
 9 not be obligated or expended by any agency or entity of the
 10 United States for any expenses related to any cooperation
 11 prohibited by this section.

12 “(d) Consistent with the objectives of this section, the
 13 President should not—

14 “(1) assign or detail any member of the United
 15 States Armed Forces to serve as, or otherwise perform
 16 the functions of, a defense (or military) attache in
 17 South Africa; or

18 “(2) accredit any individual to serve as, or other-
 19 wise perform the functions of, a defense (or military)
 20 attache at a South African diplomatic mission in the
 21 United States.”.

22 **SEC. 6. MULTILATERAL MEASURES TO UNDERMINE APARTHEID.**

23 **(a) NEGOTIATING AUTHORITY.—**

24 (1) Section 401(b)(1) of the Act is amended to
 25 read as follows:

1 “(b)(1) *The President, or at his direction, the Secretary*
 2 *of State, shall, consistent with the policy under subsection*
 3 *(a), confer with the other industrialized democracies in order*
 4 *to reach cooperative agreements to impose sanctions against*
 5 *South Africa to bring about the complete dismantling of*
 6 *apartheid.”.*

7 (2) *Section 401(b)(2) of the Act is amended by*
 8 *striking “this Act,” and inserting “the Anti-Apartheid*
 9 *Act Amendments of 1988,”.*

10 (b) *UNITED NATIONS SANCTIONS.—Section 401(e) of*
 11 *the Act is amended by striking “It is the sense of the Con-*
 12 *gress that the President should” and inserting “The Presi-*
 13 *dent shall”.*

14 (c) *LIMITATION ON IMPORTS FROM AND CONTRACT-*
 15 *ING WITH CERTAIN FOREIGN PERSONS.—Section 402 of*
 16 *the Act is amended to read as follows:*

17 “*LIMITATION ON IMPORTS FROM AND CONTRACTING WITH*
 18 *CERTAIN FOREIGN PERSONS*

19 “*SEC. 402. (a) To the extent that a foreign person takes*
 20 *significant commercial advantage of—*

21 “(1) *any sanction or prohibition imposed by or*
 22 *under this Act, or*

23 “(2) *any sanction or prohibition of another indus-*
 24 *trialized democracy which is comparable to, and in-*
 25 *creases the efficacy of, United States sanctions and*
 26 *prohibitions under this Act,*

1 *the President shall impose not less than one of the penalties*
 2 *under subsection (b).*

3 *“(b) The penalties which the President may impose*
 4 *under subsection (a) are:*

5 *“(1) Limit the importation into the United States*
 6 *of any product or service of the foreign person.*

7 *“(2) Restrict the foreign person from contracting*
 8 *with departments, agencies, and instrumentalities of*
 9 *the United States Government.”.*

10 **SEC. 7. COORDINATOR OF SOUTH AFRICA SANCTIONS; INTER-**
 11 **AGENCY COORDINATING COMMITTEE ON SOUTH**
 12 **AFRICA.**

13 *The Act is amended by adding after section 606 the*
 14 *following new sections:*

15 **“COORDINATOR OF SOUTH AFRICA SANCTIONS**

16 **“SEC. 607. (a) There is established within the Depart-**
 17 **ment of State a coordinator of South Africa sanctions who**
 18 **shall be responsible to the Secretary of State for matters per-**
 19 **taining to the implementation of sanctions against South**
 20 **Africa, in accordance with the provisions of this subsection.**

21 **“(b) The Secretary of State, through the coordinator of**
 22 **South Africa sanctions, shall—**

23 **“(1) lead and coordinate all executive agency ac-**
 24 **tivities concerning monitoring of compliance with, and**
 25 **enforcement of, this Act;**

1 “(2) lead and coordinate monitoring by appropri-
2 ate executive agencies of other countries’ trade and fi-
3 nancial flows with South Africa (including economic
4 relations which may undermine the effects of United
5 States sanctions);

6 “(3) assist the Department of Commerce, the De-
7 partment of the Treasury, and appropriate intelligence
8 and other agencies in carrying out the functions of
9 such agencies under paragraphs (1) and (2); and

10 “(4) annually prepare and submit, on February 1
11 of each year after 1989, a comprehensive report to the
12 Congress which—

13 “(A) describes specific actions taken during
14 the preceding year by each affected executive
15 agency to monitor compliance with, and enforce,
16 the provisions of this Act;

17 “(B) describes the trade and financial flows
18 (by commodity, activity, total volume, and value)
19 during the preceding year between South Africa
20 and each of its trading and financial partners, in-
21 cluding economic relations which may violate sec-
22 tion 402 of this Act;

23 “(C) describes the resources utilized by the
24 coordinator, the Department of State, and other
25 executive agencies in carrying out their functions

4 “(D) provides any recommendations of the
5 Secretary of State for improving the effectiveness
6 of the coordinator.

11 "INTER-AGENCY COORDINATING COMMITTEE ON SOUTH

13 *"SEC. 608. (a) There is established an Inter-Agency*
14 *Coordinating Committee on South Africa. The Committee*
15 *shall coordinate and monitor implementation of this Act.*

24 “(8) such other heads of executive agencies with
25 functions under this Act as the President considers
26 appropriate.

1 *The Secretary of State shall be the chairperson of the*
 2 *committee.”.*

3 **SEC. 8. INDEPENDENCE OF NAMIBIA.**

4 (a) **ADDITIONAL MEASURE FOR TERMINATION OF**
 5 **CERTAIN PROVISIONS OF THE ACT.**—Section 311 of the
 6 *Act is amended—*

7 (1) *in subsection (a)—*

8 (A) *in paragraph (4) by striking “and” after*
 9 *the semicolon;*

10 (B) *in paragraph (5) by striking the period*
 11 *and inserting “; and”;*

12 (C) *by adding after paragraph (5) the follow-*
 13 *ing new paragraph:*

14 “(6) *ends the illegal occupation of Namibia and*
 15 *implements United Nations Resolution 435 which calls*
 16 *for the independence of Namibia.”; and*

17 (2) *in subsection (b) by amending paragraph (2)*
 18 *to read as follows:*

19 “(2) *taken four of the five actions listed in para-*
 20 *graphs (2) through (6) of subsection (a), and”.*

21 (b) **POLICY TOWARD THE GOVERNMENT OF SOUTH**
 22 **AFRICA.**—Section 101(b) *is amended—*

23 (1) *in paragraph (5) by striking “and” after the*
 24 *semicolon;*

1 (2) by striking the period at the end of paragraph
2 (6) and inserting “; and”; and

3 (3) by adding after paragraph (6) the following
4 new paragraph (7):

5 “(7) end South Africa’s illegal occupation of Na-
6 mibia and implement United Nations Resolution 435
7 which calls for the establishment of an independent
8 Namibia.”

9 **SEC. 9. REPORT ON PROGRAM TO REDUCE DEPENDENCE UPON**
10 **IMPORTATION OF STRATEGIC MINERALS FROM**
11 **SOUTH AFRICA.**

12 Section 504(b) of the Act is amended by adding at the
13 end “Not later than April 1, 1989, the President shall submit
14 to the Congress a report describing the program developed
15 under this subsection.”.

16 **SEC. 16. PENALTIES.**

17 Effective 180 days after the date of the enactment of this
18 Act, section 603(b) of the Act is amended—

19 (1) in paragraph (2)—

20 (A) by inserting “(A)” after “(2)”; and

21 (B) by adding at the end of subparagraph
22 (A) (as so designated by subparagraph (A) of this
23 paragraph) “and”; and

24 (C) by adding at the end the following new
25 subparagraph:

1 “(B) any person, other than an individual that
2 knowingly violates the provisions of this Act, or any
3 regulation, license, or order issued to carry out this Act
4 shall be fined not more than \$500,000; and”; and

5 (2) in paragraph (3)—

6 (A) by inserting “(A)” after “(3)”; and

7 (B) by adding at the end the following new
8 subparagraph:

9 “(B) any individual who knowingly violates the
10 provisions of this Act, or any regulation, license, or
11 order issued to carry out this Act shall be fined not
12 more than \$250,000, or imprisoned not more than 5
13 years, or both.”.

14 **SEC. 11. ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.**

15 (a) **AMENDMENT TO FOREIGN ASSISTANCE ACT OF**
16 1961.—Section 535(a) of the Foreign Assistance Act of
17 1961 is amended—

18 (1) by amending paragraph (1) to read as follows:

19 “SEC. 535. **ECONOMIC SUPPORT FOR DISADVAN-**
20 **TAGED SOUTH AFRICANS.**—(a)(1) Up to \$40,000,000 of
21 the funds authorized to be appropriated to carry out this
22 chapter and any other economic development assistance ac-
23 tivities under the Foreign Assistance Act of 1961, for the
24 fiscal year 1989 and each fiscal year thereafter, shall be
25 available for assistance for disadvantaged South Africans.

1 *Assistance under this section shall be provided for activities*
 2 *that are consistent with the objective of a majority of South*
 3 *Africans for an end to the apartheid system and the establish-*
 4 *ment of a society based on nonracial principles. Such activi-*
 5 *ties may include scholarships, assistance to promote the par-*
 6 *ticipation of disadvantaged South Africans in trade unions*
 7 *and private enterprise, alternative education and community*
 8 *development programs, and training and other assistance (in-*
 9 *cluding legal aid in challenging government media restric-*
 10 *tions) for South African journalists.”.*

11 (2) in paragraph (2) by striking “programs for
 12 *South Africa’s trade unionists.”* and inserting “and
 13 *other support programs (including legal assistance) for*
 14 *trade unions in South Africa and Namibia, including*
 15 *COSATU (Congress of South African Trade Unions),*
 16 *NACTU (National Council of Trade Unions), and*
 17 *NUNW (National Union of Namibian Workers), their*
 18 *affiliates, and other viable unions in order to develop a*
 19 *balanced assistance program which is representative of*
 20 *the trade union movement.”; and*

21 (3) by adding after paragraph (2) the following
 22 *new paragraph:*

23 “(3)(A) *Not less than \$4,000,000 of the amounts*
 24 *provided for each fiscal year pursuant to this subsec-*
 25 *tion shall be available for programs of refugee educa-*

1 *tion and assistance for South Africans and Nami-*
 2 *bians.*

3 *“(B)(i) Except as provided in clause (ii), funds*
 4 *provided pursuant to this paragraph—*

5 *“(I) may not be used for assistance to indi-*
 6 *viduals who are residing in areas under the con-*
 7 *trol of or administered by the South West Africa*
 8 *People’s Organization (hereinafter referred to as*
 9 *‘SWAPO’) or the African National Congress*
 10 *(hereinafter referred to as ‘ANC’); and*

11 *“(II) may not be administered through*
 12 *SWAPO, the ANC, or any other group or indi-*
 13 *vidual affiliated with SWAPO or the ANC.*

14 *“(ii) The President may waive any limitation*
 15 *concerning the African National Congress (ANC)*
 16 *under clause (i) if the President determines that the*
 17 *ANC has provided assurances that it does not support*
 18 *any form of violence against individuals who are not*
 19 *members of the South African military or security*
 20 *services actually engaged in military or paramilitary*
 21 *operations against the ANC or other resistance organi-*
 22 *zations or if the President determines that it is in the*
 23 *national security interests of the United States.”.*

24 *(b) EFFECTIVE DATE.—The amendments made by*
 25 *subsection (a) shall take effect October 1, 1988.*

1 **SEC. 12. SENSE OF CONGRESS REGARDING ANTITRUST INVESTI-**
 2 **GATION OF SOUTH AFRICAN DIAMOND CARTEL**
 3 **AND STUDY OF DIAMOND ORIGINS.**

4 *It is the sense of the Congress that—*

5 *(1) the President should direct the Attorney Gen-*
 6 *eral of the United States to conduct an investigation of*
 7 *the South African-controlled international diamond*
 8 *cartel in order to ascertain if any enforcement action is*
 9 *appropriate under the antitrust laws of the United*
 10 *States; and*

11 *(2) the President should direct the Secretary of*
 12 *Commerce and the Commissioner of Customs to con-*
 13 *duct a study to determine the feasibility of identifying*
 14 *at port of entry, without harm to producers and proces-*
 15 *sors of diamonds outside of South Africa, the national*
 16 *origin of diamonds entering the United States.*

17 **SEC. 13. STUDY OF MEASURES TO REDUCE SOUTH AFRICA'S**
 18 **FOREIGN EXCHANGE EARNINGS FROM GOLD.**

19 *(a) STUDY.—In consultation with other industrialized*
 20 *nations and international financial institutions, the Presi-*
 21 *dent shall conduct a study of possible actions by the United*
 22 *States to reduce the foreign exchange earnings of South*
 23 *Africa which accrue through sales of gold. The President*
 24 *shall consider possible international and domestic conse-*
 25 *quences of any course of action and shall evaluate mecha-*

1 *nisms to avoid or minimize any adverse effects on the United*
 2 *States gold mining industry.*

3 *(b) REPORT.—Not later than 180 days after the date of*
 4 *the enactment of this Act, the President shall submit to the*
 5 *Congress a report of the findings of such study.*

6 **SEC. 14. SENSE OF CONGRESS REGARDING SOUTH AFRICAN**
 7 **CONSULATES AND APPROVAL OF VISAS.**

8 *It is the sense of the Congress that—*

9 *(1) South Africa has effectively banned 19 major*
 10 *anti-apartheid organizations, forbade the major trade*
 11 *union federation, COSATU, from engaging in politi-*
 12 *cal activities, and denied permission for travel to the*
 13 *United States to numerous South Africans;*

14 *(2) the repression by South Africa of domestic*
 15 *and foreign media has prevented the free flow of infor-*
 16 *mation essential to the advance of any national dia-*
 17 *logue between the government and the nonwhite majori-*
 18 *ty which actively opposes apartheid, and has restricted*
 19 *the ability of the foreign press to report developments*
 20 *in South Africa;*

21 *(3) the President should immediately close two of*
 22 *South Africa's consulates general, eliminate all honor-*
 23 *ary consuls which South Africa has in the United*
 24 *States, and forbid South Africa to expand the staffing*

1 *of its embassy beyond the level of January 1, 1988;*
 2 *and*

3 *(4) approval of temporary United States visas, es-*
 4 *pecially to South African government personnel, should*
 5 *be granted on a case-by-case basis only after close*
 6 *scrutiny of the South African Government's record of*
 7 *allowing South African citizens, particularly those who*
 8 *are members of anti-apartheid organizations, to travel*
 9 *to the United States.*

10 **SEC. 15. REPORT ON SOUTH AFRICA'S INVOLVEMENT IN INTER-**
 11 **NATIONAL TERRORISM.**

12 *Not less than 90 days after the date of the enactment of*
 13 *this Act, the Secretary of State shall prepare and submit a*
 14 *detailed report to the Committee on Foreign Affairs of the*
 15 *House of Representatives and the Committee on Foreign Re-*
 16 *lations of the Senate concerning the extent to which, if at all,*
 17 *the Government of South Africa has been involved in or has*
 18 *provided support for acts of international terrorism.*

19 **SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.**

20 **(a) AMENDMENTS TO THE TABLE OF CONTENTS.—**

21 *(1) The table of contents in section 2 of the Act is*
 22 *amended by amending the items relating to title III to*
 23 *read as follows:*

**"TITLE III—MEASURES BY THE UNITED STATES TO
UNDERMINE APARTHEID**

"Sec. 301. Prohibition on investment and trade.

"Sec. 302. Prohibition on imports into the United States from South Africa.

"Sec. 303. Prohibition of exports to South Africa from the United States.

"Sec. 304. Restrictions regarding involvement in the South African energy sector.

"Sec. 305. Prohibitions on loans to the Government of South Africa.

"Sec. 306. Prohibition on air transportation with South Africa.

"Sec. 307. Prohibition on nuclear trade with South Africa.

"Sec. 308. Government of South Africa bank accounts.

"Sec. 309. Prohibition on United States intelligence and military cooperation with South Africa.

"Sec. 311. Termination of certain provisions.

"Sec. 312. Policy toward violence or terrorism.

"Sec. 313. Termination of tax treaty and protocol.

"Sec. 314. Prohibition of United States Government procurement from South Africa.

"Sec. 315. Prohibition on the promotion of United States tourism in South Africa.

"Sec. 316. Prohibition on United States Government assistance to, involvement in, or subsidy for trade with, South Africa."

1 (2) *The table of contents in section 2 of the Act is*
2 *further amended—*

3 (A) *by striking the item relating to section*
4 312;

5 (B) *by amending the items relating to sec-*
6 *tions 402 and 502, respectively, to read as*
7 *follows:*

"Sec. 402. Limitation on imports from and contracting with certain foreign persons.

"Sec. 502. Reports on United States imports from member states of the Council for Mutual Economic Assistance."; and

8 (C) *by adding after the items relating to sec-*
9 *tion 606 the following items:*

"Sec. 607. Coordinator of South Africa sanctions.

"Sec. 608. Inter-agency coordinating committee on South Africa."

10 (b) **CONFORMING AMENDMENTS TO THE ACT.**

11 (1) *Section 602(a)(1) and 602(b)(1) of the Act*
12 *are amended by striking "318(b),".*

1 (2) Section 602(c) is amended by striking para-
 2 graph (2) and redesignating paragraphs "(3)" and
 3 "(4)" as paragraphs "(2)" and "(3)", respectively.

4 (3) Section 603(b) of the Act is amended by strik-
 5 ing paragraph (4).

6 (4) Section 603(c) of the Act is amended by strik-
 7 ing paragraph (2) and by redesignating paragraph
 8 "(3)" as paragraph "(2)".

9 (5) Section 501(c) of the Act is amended—

10 (A) by inserting "or other measures" after
 11 "additional measures"; and

12 (B) by striking paragraph (2) and redesign-
 13 nating paragraphs (3) and (4) as paragraphs
 14 "(2)" and "(3)", respectively.

15 (6) Section 502 of the Act is amended to read as
 16 follows:

17 **"REPORTS ON UNITED STATES IMPORTS FROM MEMBER**
 18 **STATES OF THE COUNCIL FOR MUTUAL ECONOMIC**
 19 **ASSISTANCE**

20 **"SEC. 502. Beginning 30 days after the date of the**
 21 **enactment of this Act, and every 30 days thereafter, the**
 22 **President, through the Secretary of Commerce, shall prepare**
 23 **and transmit to the Congress a report setting forth the aver-**
 24 **age amounts of imports of coal or any strategic and critical**
 25 **material entering the United States from each member coun-**

1 try and observer country of the Council for Mutual Econom-
2 ic Assistance (C.M.E.A.).”

3 (c) *EFFECTIVE DATE.*—The amendments made by this
4 section shall take effect 180 days after the date of the enact-
5 ment of this Act.

6 *SEC. 17. EFFECTIVE DATE.*

7 Except as otherwise provided, this Act and the amend-
8 ments made by this Act shall take effect on the date of the
9 enactment of this Act.

○

Our witnesses today are Howard Wolpe of Michigan; R. Richard Newcomb, director, Office of Foreign Assets Control, Treasury, accompanied by William J. McFadden, deputy director, Office of International Banking and Portfolio Investment; Charles W. Freeman, Jr., deputy assistant secretary for African Affairs, Department of State; and Cecelie Blakey, political director, TransAfrica, all of whom will answer any questions Members may have.

At this time I recognize our ranking Member, Mr. Wylie, for an opening statement.

Mr. WYLIE. Thank you very much, Mr. Chairman.

I want to thank our witnesses for appearing here this morning, particularly our colleague Congressman Wolpe.

It is with great reluctance we must again consider sanctions legislation against South Africa. But it is clear that the lack of progress toward ending apartheid in South Africa during the last 2 years has made consideration of this kind of legislation inevitable.

I supported the sanctions legislation in 1985 and 1986 because, as I said at that time, South Africa is the only country where racism is institutionalized by law and supported by the government. Such a system cannot and should not be allowed to continue, particularly with the economic support of the United States.

The legislation we approved did impose tough economic sanctions, but more significantly, the United States signaled its intentions to the South African Government. The black majorities there and the world at large said it would no longer tolerate the apartheid system and, if necessary—and it was—we would use our economic resources to see it end.

The question before us now is whether or not we should continue the policy of using economic sanctions as the best means of ending apartheid. Continuing the policy raises a number of difficult policy questions to which there are no easy answers.

For example, have the black majorities been helped or hurt by the sanctions policy. Will it have the effect of concentrating economic power in those who support apartheid? Does the situation warrant tough new sanctions? Finally, is it wise to unilaterally take action at this time without consulting our allies?

These are difficult questions and perhaps we can shed light on these issues this morning.

Mr. Chairman, let me conclude by saying that I am inclined to support this legislation because of the lack of progress in the past and because I believe real progress does not lie ahead. Nevertheless, I remain concerned that this bill goes too far in some respects and in order to receive truly bipartisan support, some moderation will be necessary.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Wylie.

At this time, the Chair recognizes—any other Members who wish to be recognized?

Ms. OAKAR. Mr. Chairman.

The CHAIRMAN. Ms. Oakar.

Ms. OAKAR. I want to compliment the distinguished subcommittee chairman Mr. Wolpe, and Mr. Dellums, who has a magnificent statement—I know he couldn't be here.

Mr. Chairman, I am delighted to see that Members understand that our committee has jurisdiction over the portion of the bill, this very important portion related to the prohibition of loans and other elements of credit to South Africa. I think our committee has a very important role to play, and I support this bill and the efforts of you, Mr. Chairman, and Mr. Wolpe and Mr. Dellums.

THE CHAIRMAN. If there be no objection, at the conclusion of the statement and the questions and answers of Chairman Wolpe, we will place into the record the entire statement of our colleague, Mr. Dellums, who submitted a statement for entry into the record.

[The prepared statement of Hon. Ronald Dellums can be found in the appendix.]

We will now recognize the distinguished Chairman of the Foreign Affairs Subcommittee, Mr. Wolpe, for a statement. Then we will have a short series of questions and answers, I assume.

STATEMENT OF HON. HOWARD WOLPE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. WOLPE. Thank you very much, Mr. Chairman. Let me express my appreciation to you, first of all, for your expeditious consideration of this legislation and for the opportunity to testify today.

There is no question that my Subcommittee on Africa has spent a great deal of time on the broad subject of South African policy. We did not come to recommend the legislation that is now before you very lightly. We recognize it is very far-reaching legislation. A lot of deliberation went into its development.

Extensive analysis of what brought us to this point is contained in a rather lengthy paper that is being distributed to the Members of the committee. I will provide a much more shortened testimony this morning, and will be glad to respond to your questions.

There is a terrible tragedy in the making in South Africa. A blood-bath looms, and all of us are threatened by its consequences. The human costs of a prolonged and violent struggle in South Africa are incalculable both in terms of treasure and of lives—black and white—that it will consume. And the struggle for liberation in South Africa will increasingly affect the United States and the Western World.

We cannot run and we cannot hide from the struggle or its consequences. All of our rationalizations for inaction will ring increasingly hollow and will only fuel racial division and conflict in America and throughout the world. For it is the doctrine of white supremacy, of racism, that provides the only reason and justification for the apartheid regime.

People of color understand that very clearly, whether they live in America, in Africa, or elsewhere. They also see through, just as clearly, all of the subterfuges that are devised to rationalize the accommodation that the United States, the Western World and, in its cartel-like relationship with the South African diamond industry, even the Soviet Union has made with the apartheid regime.

The simple truth of the matter is that apartheid exists because it is enormously profitable to South Africa's ruling minority. All of

the elements of the apartheid system contribute to one objective: the preservation of white minority privilege.

In an important sense, South African society operates as one vast slave plantation. Blacks have little control over their own destinies. They cannot freely determine either where they live or the conditions under which they work. They have no importance to the white minority except as a pool of cheap labor required to keep South African mines and economy going and the white minority prospering.

That is why anti-sanctions advertisements such as the one sponsored by the South African Business Council that appeared recently in the *Washington Post*, in which a picture of a zebra was presented with a caption that read, "Shoot it in the white and the black dies with it," can only be characterized as obscene. What that ad reveals is that some of the principal beneficiaries of apartheid, the white South African business interests for whom apartheid has been so enormously profitable, are hiding behind the victims of apartheid in their effort to resist stronger economic sanctions and to preserve their profits.

Those who call for new sanctions against South Africa are not unaware that such measures as a trade embargo and disinvestment will affect South Africa's black majority. Clearly, increased economic pressure against apartheid will mean economic costs for the black population.

But, as Bishop Tutu, Reverend Boesak, and key South African trade union leaders have repeatedly stated, the short-term costs of economic sanctions will be far less than the long-term costs—in terms not only of economic hardship but of loss of lives—of a protracted violent liberation struggle. The only way that this kind of struggle can be averted is by a decision of the white minority to abandon apartheid and to negotiate with the black majority the transition to a new and democratic political order.

Whatever the costs of sanctions to the black majority, the costs to the privileged white minority will be far greater, and it is precisely for this reason that the South African Government and business community are so determined to defeat this effort to impose new sanctions.

The harsh reality is that no regime in the history of the world has ever voluntarily relinquished power, and there is no reason to believe that the white minority of South Africa is somehow unique in this respect.

The current regime will give up its monopoly of power, will abandon apartheid and sit down to negotiate a new democratic political system with the country's black majority only when it concludes it has more to lose than to gain by trying to hold on to the apartheid system. Anything we in the United States or the international community do that signals to the white minority that it can continue to operate as a totalitarian, repressive state without fundamental economic costs and deepening international isolation will only prolong the struggle. That, in turn, will mean increased polarization inside South Africa, much greater violence and bloodshed, and far greater risks for the United States and the Western World.

We have vital interests in South Africa, and widening regional conflict and instability will imperil those interests. That is why we

need now, rather than later, to do everything we can to help create the conditions for regional peace and stability.

Many American corporations have withdrawn in recent years, some because the profitability of their companies in South Africa declined precipitously, others because of their concern about the domestic consequences of their continued involvement in South Africa, and still others because they concluded that their presence in South Africa was doing more to sustain than to end apartheid. This voluntary disinvestment, together with the limited economic sanctions that have been imposed, has had a real impact on the South African economy and political system.

Lest this be in doubt, listen to these words of Gerhart deKock, Governor of the South Africa Reserve Bank, who on September 11, 1987, stated: "The basic underlying problems that threaten to isolate us from the rest of the world have not yet been solved. The outflow of capital, the emigration of skilled people, the large discount on the financial rand, and the decline in fixed and inventory investment, are all sending us messages that we should heed.

"They are telling us that, whatever improvements we bring about in our short- and long-term economic strategies, we must first and foremost convince both the outside world and ourselves that we are continuing on the road of peaceful and constitutional reform."

I understand that some bankers have raised questions about the provision of H.R. 1580 that prohibits further rescheduling of South African loans. They argue that rescheduling helps ensure some repayment and therefore increases the financial burden on South Africa. But, in reality, the apartheid regime's economic and political benefits from rescheduling far exceed their costs.

"It's a great day for South Africa," exclaimed South African Finance Minister Barend de Plessis when the most recent rescheduling agreement was signed in March, 1987. In the first place, rescheduling opened the way for hundreds of millions of dollars of new medium- and long-term loans from Swiss, German and other banks, and for even larger amounts of trade credits which are the lifeblood of the South African economy.

Second, the rescheduling agreement was perceived by South African businessmen and political leaders as an international vote of confidence in the viability and stability of the apartheid regime, as a statement of faith in its ability to repay debts despite unrest. It encouraged fearful local businessmen and hard-pressed officials to go forward with "business as usual."

As one South African economic commentator wrote at the time, "To Pretoria the debt agreement signaled a major shift in the perceptions and attitudes toward South Africa of some of the world's biggest and most influential banks. In short, the arrangement took the sting out of the most damaging sanction yet imposed on South Africa by Western industrialized nations. . . . At home it added to a mood of euphoria."

Mr. Chairman, there has been no sanction against South Africa more powerful than when the United States and then Western banks cut off all credit in 1985 and demanded immediate repayment on current loans. The government was stunned. It quickly de-

creed the abolition of the hated pass book system and restored citizenship to about 2 million black South Africans.

When the banks relented, and were about to enter into a rescheduling agreement, the Nobel Laureate, Bishop Desmond Tutu, Reverend Alan Boesak, a founder of the largest political organization in South Africa, the United Democratic Front, and Reverend Beyers Naude, general secretary of the South African Council of Churches, publicly pleaded for "international and domestic financial leverage to be applied to minimize further bloodshed and structural damage."

"Consequently," they said, "We request of the banks participating in the rescheduling negotiations that rescheduling of South Africa's debt should be made conditional upon the resignation of the present regime and its replacement by an interim government responsive to the needs of all South Africa's people."

I was very pleased, Mr. Chairman, that you and several colleagues on this committee, including Mr. Leach, Mr. Bereuter, and Mr. Roemer, joined the speaker, the chairmen of the Foreign Affairs Committee and the Black Caucus, and other Members at the time in writing the major U.S. banks urging them to make any rescheduling conditional upon negotiations with the black majority for a democratic system and concrete steps toward the dismantling of apartheid.

When the current, more generous rescheduling agreement was signed last year, Archbishop Tutu declared that the international banks had done black South Africans "a great disservice" by extending credit to the government without extracting guarantees that apartheid would be eliminated. He said it appeared that the country's creditors had adopted a softer attitude toward South Africa as a direct result of the government's "strong arm tactics." He said, "These international bodies are prolonging the misery of blacks."

Mr. Chairman, Archbishop Tutu's conditions for rescheduling are similar to the conditions for lifting sanctions in H.R. 1580. Archbishop Tutu supports this bill and I hope the committee will do the same.

Let me add that an exemption for rescheduling would be completely inconsistent with the purpose of this legislation, which is to mobilize comprehensive international economic sanctions against South Africa. To put it bluntly, the purpose of this bill is to deprive South Africa of its foreign exchange so that it can't participate in rescheduling or any other international banking transactions.

That concludes my formal statement, Mr. Chairman. I appreciate your indulgence, and am pleased to respond to questions that you or Members may have.

The CHAIRMAN. Thank you, Chairman Wolpe, you presented a thorough and clear statement. Your sincerity came through to us. You also did take the time, knowing full well that that would be an item of major discussion since the major banks around the country have been on the telephones.

Mr. WOLPE. I have heard.

The CHAIRMAN. Doing their lobbying. And their argument, incidentally, is if we were to prohibit rescheduling of existing loans, it

would mean a windfall to South Africa because they say the U.S. creditors would then have to sell existing debt at discounts.

Has your committee uncovered any evidence of the fact that this would occur or that this has been threatened, or that the South African Government would in reality default on loans when rescheduling is refused, and knowing full well this would affect their standing in the international financial community?

Mr. WOLPE. You have given direct rebuttal to the argument that has been made. Mr. Chairman, this is one situation in which we actually do have empirical experience. There was this previous episode in 1985; it was very clear at that point that there is nothing that the government feared more than the absence of a rescheduling agreement to be reached, because they were clearly aware that the failure of the international banking community to accept rescheduling would be to really lessen very dramatically business confidence, both internally within South Africa and externally, in the apartheid regime's ability to continue to function.

That is why they wanted to achieve rescheduling. I hope we will not give them that gift this time.

The CHAIRMAN. Mr. Wylie?

Mr. WYLIE. Thank you, Mr. Chairman.

That is the troublesome part of this bill to me, the issue of rescheduling. You have emphasized that, and the chairman honed in on that right away. The Treasury will testify a little later on, I think, that the rescheduling part of this sanctions bill could cause the U.S. banks to sell nearly \$2.8 billion in existing loans, which they say will provide a windfall for the South African Government.

It comes from the Treasury, too, not just the banks. You have some indication that that is not an accurate appraisal of the situation?

Mr. WOLPE. Certainly, some of the loan portfolio could be sold off. It is true in the short term, there could be short-term South African beneficiaries of that.

The fact of the matter is that decision to deny rescheduling by the United States will have dramatic consequences for the confidence for the remainder of the international financial community, and the likelihood that South Africa will be able to achieve continued credit in other banks in other countries will be diminished because of their understanding of the relationship between a rescheduling denial and the impact upon long-term business investor confidence and the banking financial community confidence in their own government that the South African Government so bitterly resisted this element of the legislation and in the past was so determined to try to negotiate a rescheduling arrangement.

Mr. WYLIE. Is it your position that the intent of the bill would not be achieved if we continued to allow rescheduling, as long as no new funds were put into South Africa?

Mr. WOLPE. It would certainly weaken substantially the overall thrust and effort of this legislation. Let me say something else, Mr. Wylie. Let's not kid ourselves. The banking community here obviously has its own interest in coming forward here.

I am not unsympathetic. I wish there were a way that it were possible to add to the pressures on the regime and on the South African economy that would not at the same time add cost or in-

convenience to elements of the American business community that are doing business in South Africa.

Just as I wish it were possible to add to the cost upon the regime and the white minority that impose apartheid without adding collateral cost to the victims of apartheid, the black majority. There simply is no way to do that. You can't segregate that.

As we have discovered, many other situations around the world when economic sanctions have been imposed, we have understood in advance that there will be inconvenience created for elements of our own business community, costs involved for the populations affected in countries against whom sanctions are imposed.

But we have always understood that at times sanctions are critical as a means of adding pressure on the government to change its long-term policies, and also as a means of disassociating the United States from those regimes.

I wish it were otherwise, but I don't think there is in this instance an easier kind of approach that can be taken.

Mr. WYLIE. It is your position that the rescheduling, previous rescheduling was the catalyst by which funds flowed in from other industrialized countries into South Africa?

Mr. WOLPE. It is fascinating to read the South African newspapers and media at that point in time. The impact of earlier decisions taken by the international community and concern that the South Africans were beginning to manifest the growing rescheduling campaign. That decision altered the political climate in South Africa.

It was heralded as a major victory for the apartheid regime.

Mr. WYLIE. You are an impressive witness. Obviously, very knowledgeable.

The CHAIRMAN. When you held hearings, your committee, on this legislation, you did have witnesses appear to testify on this particular section?

Mr. WOLPE. We did have witnesses appear.

The CHAIRMAN. Would you introduce your staff?

Mr. WOLPE. Dr. Steven Weissman, the staff director for the Subcommittee on Africa.

The CHAIRMAN. Could Dr. Weissman answer the question? Which witnesses did you have testify on this particular sanction, the rescheduling?

Mr. WEISSMAN. Roger Odell, from the Overseas Development Institute in England, leading prominent authority, testified.

The CHAIRMAN. Who else?

Mr. WEISSMAN. Merrill Lipton from the Investor Research Responsibility Center testified about this section.

The CHAIRMAN. Did Treasury and State testify?

Mr. WEISSMAN. Treasury, Commerce and State testified before the committee.

The CHAIRMAN. How about any of the trade associations?

Mr. WEISSMAN. No. They did not. However, American business submitted a list of witnesses, many of whom were from South Africa. They also testified before the subcommittee.

The CHAIRMAN. Did you have any testimony against—other than from State and Treasury—against this section?

Mr. WEISSMAN. No.

Mr. WOLPE. Of course, there were other witnesses that testified against the legislation generally as a broad and—

The CHAIRMAN. Did the ABA request an opportunity to testify?

Mr. WOLPE. No.

The CHAIRMAN. Or any of the banking community?

Mr. WOLPE. No.

The CHAIRMAN. Thank you.

Mr. Gonzalez?

Mr. GONZALEZ. Mr. Chairman, you anticipated one part of what I was going to ask. One question I was going to ask, when the legislation previously was presented to the Congress, did this committee have reference to it at any time? If I recall, this is a first-time, or is it not?

The CHAIRMAN. In my opening statement, I outlined that legislation has come through this committee in the past addressing this problem.

Mr. WOLPE. If I may also add, at that point the committee did have a hearing. The same provision was in the legislation at that point, and this committee did not object.

Mr. GONZALEZ. At that time, did we have industry spokesmen, ABA and others?

The CHAIRMAN. I would have to reserve on that.

Mr. GONZALEZ. I was concerned about it. Actually, you say, Mr. Congressman, that on the last occasion when the rescheduling item or issue appeared, how was that resolved? What happened?

Mr. WOLPE. What happened initially—the banks had indicated they were not going to make further credit available. Negotiations ensued. At that point, in the course of those negotiations, we received an urgent entreaty from Reverend Boesak, Bishop Tutu and Reverend Beyers Naude that the banks should hang tough, that there should be a serious effort at negotiations and any rescheduling agreement into the regime should have conditions.

The CHAIRMAN. The point is that absent the section in the legislation before us, the banks were not prohibited from rescheduling, and they in fact did reschedule over the objections of many people, including a number of Members of Congress, the Foreign Affairs Committee and the Banking Committee.

Mr. GONZALEZ. That answers the question. What about the international banking community, the BIS, for instance, the Bank for International Settlements? What has been their role in this kind of legislation, if any?

In other words, if what we mandate amounts to an American bank unilateral withdrawal, what about these other countries, from Israel to England?

Mr. WOLPE. There is a mandate within the body of this legislation that the President sit down with leaders of the industrialized nations and work to multilateralize sanctions we would be imposing in this bill. That is an important next step that needs to be taken.

Unfortunately, the administration at this point has actively resisted that process when it used its veto in the United Nations against a resolution that would have taken over at the international level sanctions we had already imposed.

Mr. GONZALEZ. I think that is the crux of the matter here. We have no means of reaching extraterritorial or other sovereign entities and compelling action on their part. I think you answered the question, and I want to thank you, and also for your great contribution.

The CHAIRMAN. Mr. Annunzio, any questions?

Mr. ANNUNZIO. No.

The CHAIRMAN. Mr. Neal?

Mr. NEAL. I want to say I appreciate Mr. Wolpe's testimony and his dedication to this issue over the years. You are really quite an inspiration, I will say, in your dedication to try to bring about meaningful reform and generating opposition to this abhorrent, racist regime.

I will have to say I have supported the sanctions consistently, but I do so knowing that they are not going to work. There is no evidence in my experience, to my knowledge, and no time in our history when sanctions have achieved what we set out to achieve. They didn't work against Cuba. They don't work against Nicaragua. They have not worked against South Africa.

There is no example of where sanctions work. It seems to me what we are doing here is expressing our outrage at this regime, and I don't want to denigrate that. I think that is very important in its own right. But we will be kidding ourselves if we think that the imposition of sanctions will bring about meaningful change.

Mr. WOLPE. Mr. Chairman, could I respond to Mr. Neal? Let me say, first of all, I do appreciate your kind remarks at the outset. I have a very different view of that. I think that there is a lot of evidence to the contrary, not only with respect to other nations around the world, but even with respect to the effective sanctions already inside South Africa.

Let me speak to both briefly. There are some studies that have been done that have taken a hard look at the effectiveness of sanctions applied internationally. I would be glad to make available to you that. The studies reveal there are many sanctions that have not worked, and also that have had the intended effect.

Let me mention some of those: The sanctions imposed against the Rhodesian regime. If you talk to anyone involved in the liberation struggle there, they will tell you the sanctions had an enormous effect in creating isolation in the regime and bolstering those demonstrating against the white supremacist regime.

Look at the Soviet Union. I don't think there is any question that it is the Soviet Union's desire for a different kind of economic relationship with the Western world and for freeing up the inhibitions on trade and economic activity that has been a factor in compelling a different view toward emigration, toward Jewish and other dissident elements within the Soviet Union.

I don't know anyone who thinks that it is not the economic concern of the Soviet Union that is prompting much of that kind of human rights discussion and activity.

Mr. NEAL. May I just ask you to expand on that, because if I am wrong, I want to learn about it. Just looking at the Soviet Union, isn't it true that after the passage of the Jackson-Vanik language that emigration of Jewish people declined dramatically? In fact, it has stayed at an historically low level ever since.

Mr. WOLPE. I am glad you raised that. It raised a significant question. Sanctions should not be viewed as a quick fix. You are trying to design a medium- to long-range strategy. In the first instance, the response of any people to create pressure is defensive. Of course, there will be initially a defensive response.

But at the same time, that increased pressure over time begins to have real impact, and it has had an impact on the Soviet Union. It had that impact on the Zimbabwe struggle. It is having that impact on the South African struggle. I don't know anyone who will tell you that that was not the reason for this distinguished body of Afrikaners now, including Afrikaner business folks and people among the leadership in the Afrikaner community, for sitting down with the leaders of the African National Congress in Senegal not many months ago. It is because of the growing sense of deepening international isolation and a growing sense of the lack of economic viability of the apartheid regime in the long term, that is promoting the fragmentation of the white community. This has lead many whites to take new risks and undertake new initiatives that in the previous year would have been unheard of inside South Africa.

I think you have the testimony of the African Government spokesmen themselves that have talked of the concern they have of the failing nature of their economy, that is not able to grow rapidly enough to accommodate the needs of the future.

They are talking in South Africa about the necessity of major kinds of economic reform. There is too much concrete, empirical evidence. My question has yielded a number of responses.

Mr. NEAL. I would appreciate it if you would share those studies with me. I would love to see them, because I would love to learn I am wrong about this. It is certainly a question that will be with us.

[The information referred to above can be found in the appendix.]

Mr. WOLPE. Could I make one last brief remark, Mr. Neal? I certainly want to add something else. Sanctions in and of themselves will not bring down apartheid. We ought to be under no illusions on that score. Sanctions are a means of adding to the cost the regime must bear for imposing the apartheid system. They are a means of reinforcing the internal pressures building inside the society that in the final analysis will be more determinative of final change inside South Africa.

Mr. ANNUNZIO. I appreciate my colleague yielding. I want to make this point on sanctions for the record. We passed the Gold Bullion Coin Act in this Congress that came out of this committee. The purchase of the gold Krugerrand of South Africa is prohibited now in this country. Although we passed legislation creating an American gold coin, the Krugerrand still continues to sell well versus the American gold coin in international markets.

I want to place that in the record on sanctions. I think you have answered it a moment ago when you said that sanctions are not the total resolution of the problem, but it takes time.

I do want to state for the record that the Krugerrand is still selling well against the American gold coin in international markets.

The CHAIRMAN. Mr. Shumway?

Mr. SHUMWAY. Thank you, Mr. Chairman.

Mr. Wolpe, I admire the tenacity that you have demonstrated on this issue and the sincerity with which you have made your remarks this morning. But I really cannot conceal my disdain for this bill. I think it is a very wrong and a very short-sighted approach to a problem we all recognize, is a difficult problem for all of us.

I think the bill is designed to victimize a very important ally of the United States. It could have the effect of bringing down all the southern continent of Africa, 16 nations and over 150 million people. From a foreign policy point of view and a long-term point of view, I think that is not in the best interest of the United States.

Let me ask you two questions, though. I understand that there are a substantial number of small investors, as well as institutional investors who hold assets in South Africa. One of them is the California State Teachers Retirement System, from my own State, which holds American depository receipts based on shares and foreign companies doing business in South Africa.

The total amount of these already in the United States prior to the imposition of sanctions against new investment in 1986 is in the billions of dollars. Do we know how much money is at stake here, and who owns these assets?

I also understand that 7 percent of the portfolio of the California Teachers Retirement Fund, or some \$2 billion out of \$23 billion is in companies, United States and foreign, doing business in South Africa. Can you tell us how much is in these ADRs as we talk about them and who owns them?

The CHAIRMAN. Congressman Wolpe, if you would like, since you have your—is he your staff director?

Mr. WOLPE. We can provide that for the record.

The CHAIRMAN. All right.

[The information referred to above can be found in the appendix.]

Mr. WOLPE. Mr. Weissman has that at his fingertips.

Mr. WEISSMAN. The Securities and Exchange Commission did a study 2 years ago that stated the approximate number of holders of the securities were 200,000, and 80 percent individuals, 20 percent institutions. The amount was approximately \$2.5 billion worth of these securities.

Mr. SHUMWAY. Whatever the amount may be, it is troublesome to me that we are taking an action that could confiscate the value of those assets, because we are forcing them to be sold at prices not marketable in a 6-month period.

It could be the source of considerable litigation and financial claims filed against the U.S. Government and U.S. taxpayers. Have you considered that ramification of doing what we are doing?

Mr. WOLPE. These holdings can be sold. There is up to a year to—

Mr. SHUMWAY. Sold at what price? Within a 6-month period, obviously it is not going to come in—

Mr. WOLPE. Of course. But it can be sold. To be held on to these holdings is a way of elevating the price and providing major support and assistance to South Africa's economy. There is no cost-free means of accomplishing the objective here that needs to be accomplished.

I wonder if I can respond briefly, Mr. Shumway, to the other brief introductory remark?

Mr. SHUMWAY. I wasn't asking for a response to that. I have limited time. I want to know if you can tell me about your feeling about violating this clause, forcing the selling of assets at obviously less than market value.

Mr. WOLPE. All economic sanctions would have that effect, including the disinvestment in Libya. There is nothing novel about the sanctions imposed in this legislation. They have been imposed elsewhere in different ways against many different countries.

Your question goes to the issue of sanctions generally.

Mr. SHUMWAY. Under this bill, is it legal for a U.S. citizen to hold South African currency?

Mr. WOLPE. The legislation refers to securities. It says nothing specifically about currency.

Mr. SHUMWAY. Can a U.S. bank do foreign exchange transactions involving Rand without being liable for penalties under this Act?

Mr. WOLPE. The administration could determine that through regulations.

Mr. SHUMWAY. It is not addressed in the bill? How about exchange and traveler's checks?

Mr. WOLPE. Again, it would be handled by regulations. It is not specifically addressed.

Mr. SHUMWAY. Mr. Chairman, there are all kinds of problems with this legislation. My time has expired. I think this illustrates the reasons why some of us are very opposed to this bill.

The CHAIRMAN. Ms. Oakar?

Ms. OAKAR. Mr. Chairman, I wholeheartedly support this legislation. On page 7 of Mr. Dellums statement, Mr. Wolpe indicates that there has been no sanction against South Africa more powerful than the United States. And when Western banks joined American banks and cut off all credit in 1985 and demanded immediate repayment on current loans it was even more powerful.

Here was the result of the sanction. The South African Government was stunned. It declared the abolition of the hated pass system and restored citizenship to about 2 million black South Africans.

Then Mr. Dellums goes on to indicate that all of the black South Africans who are supporters of this approach feel that sanctions do work if they accomplish that much human rights restoration. But I think what we are all about here is to say we don't want the United States in any way to sanction the most evil kind of discrimination in the world.

That is what we are talking about here. Let's not lose sight of what the issue is. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Wolpe, how is your schedule? I think some of the other Members might have a few more questions for you.

Mr. WOLPE. I can return, Mr. Chairman.

The CHAIRMAN. The committee will be in recess for whatever time it takes us to vote.

[Recess.]

The CHAIRMAN. The committee will come to order.

The Chair recognizes the distinguished gentleman from Georgia.

Mr. BARNARD. Thank you, Mr. Chairman.

Mr. Chairman, can you tell me how many countries presently impose sanctions on South Africa?

Mr. WOLPE. I don't have the exact number. We can supply that for the record. Several dozen have one type of sanction or another.

Mr. BARNARD. Could you itemize some of those countries? Great Britain, for example? Full sanctions in Great Britain?

Mr. WOLPE. What do you mean by "full sanctions"?

Until recently a number of countries were ahead of the United States in the amount of sanctions placed against SA. Scandinavia and Japan have prohibited the infusion of new capital in South Africa long in advance of the United States.

We have now done that. We have gone somewhat beyond many countries. The Japanese have taken over every sanction we have imposed but one, which is the full import sanction. We will document this for the record later that the British have also taken over most of the existing American sanctions again except for South Africa coal.

Mr. BARNARD. What about Canada?

Mr. WOLPE. Canada and a number of other Commonwealth nations have imposed at least the sanctions that we have. In some cases they have gone beyond the United States. Commonwealth countries are pressing for much tougher sanctions.

Mr. BARNARD. What about West Germany?

Mr. WOLPE. West Germany's response is similar to that of the British.

Mr. BARNARD. In other words, we are now behind those countries in imposing the sanctions in this bill?

Mr. WOLPE. No. Some elements included in this bill have not been imposed by other countries. The Scandinavian countries have a total trade embargo and no new investment. In that respect, a total trade embargo, they are ahead of us.

I believe that no country has yet imposed a total disinvestment requirement.

Mr. BARNARD. In developing this bill, what consideration was given as to how the multi-billion dollar losses to Americans would be compensated?

Mr. WOLPE. The same analysis has been taken as in our consideration of sanctions elsewhere. It turns out that the American economic activity or the amount of trade conducted there is a very small percentage of the total overseas American investment in South Africa.

Mr. BARNARD. I don't think you quite follow me. How do you plan to compensate the losses that are going to be sustained by not being able to reschedule these loans?

Mr. WOLPE. There is no direct compensation mechanism.

Mr. BARNARD. In other words, the bill, in other words, just expects the \$2.8 billion that the American banks tend to lose just to be written off?

Mr. WOLPE. No. You are assuming that the South Africans are going to default on all their debt if they cannot be scheduled. I am not so sure that is a valid assumption. I think the moment the South Africans do that they will have deeper problems in the international financial community even more quickly.

I don't think one can assume that because that is the amount of total debt is the amount that will be written off.

Mr. BARNARD. You do not deny the fact there will be losses?

Mr. WOLPE. Yes. It is possible there will be losses, just as there have been losses when we imposed sanctions against any country, be it the Soviet Union, Libya or Nicaragua.

There are losses imposed upon those American operations.

Mr. BARNARD. You think there should be some provision in this bill whereby those private enterprises who are going to be losing money should be compensated?

Mr. WOLPE. We have never done that in the past. Are you suggesting we should have done that in the case of Libya and in the case of Nicaragua as well?

Mr. BARNARD. No. I am just talking about this particular bill.

Mr. WOLPE. I think the point—

Mr. BARNARD. If you follow the scenario, here is what is going to happen. Some of these—some of our Western countries, some of the major money center banks in countries other than our own will no doubt buy the South African loans at a discount.

They will then turn around and sell these loans back to South Africa at probably—not at a discount, but for a high price. I would predict the American banks will probably have to sell these loans at 65 cents on the dollar.

They will then turn around and sell those loans back to South Africa for 70 cents on the dollar. So who is going to gain?

Mr. WOLPE. Well, there is no certainty about the financial flows that will follow upon this transaction. If you are suggesting that some economic losses could be ultimately incurred, on American business interests that have some involvements in South Africa, that is true. We have for example tried to minimize that in terms of flexibility with respect to the time tables for disinvestment.

But nonetheless, that is certainly true. We always understood that to be the case. The reason I raise the question of other countries, is that from a foreign policy standpoint, what has been remarkable is how unique our set of questions have been when it has come to the subject of South Africa.

We have not asked the same questions that are now being asked when we dealt with other countries. It is precisely because our questions are unique here, that the rest of the world has asked whether we have a racial double-standard when it comes to our approach of South Africa.

That is costing us dearly in terms of moral authority and political influence in that part of the world that happens not to be white, which happens to be most of the world.

Mr. BARNARD. Can't you—wouldn't you admit, though, that South Africa can benefit from a non-scheduling of investments?

Mr. WOLPE. No. I will not admit that. There can be a short-term indebtedness.

Mr. BARNARD. You mean there is no possibility—

Mr. WOLPE. There is no possibility of a long term net benefit to South Africa by the rescheduling. That is not to say that there may not be some short-term financial gains for some of those who have outstanding loans inside South Africa. The reason the South Africans so desperately want to permit continued rescheduling is they

understand that to prohibit rescheduling will begin to further undermine the long-term investor and economic confidence inside South Africa.

That is why they so bitterly resist this provision, Mr. Barnard.

Mr. BARNARD. It just looks like to me, for example, that we have been criticizing the banking industry of the country for making these loans to LDC countries, many of which they are now buying back themselves.

They are reserving against them themselves, taking tremendous losses. Now we turn around and ask them to take further losses on sanctions to South Africa which you admit were not going to change apartheid in South Africa.

Mr. WOLPE. Mr. Barnard, I did not admit that. I said they are not in and of themselves going to bring down apartheid. They are one element in a mounting pattern of pressure that is building internally and mounting externally as well. The ultimate question we need to ask ourselves is where do American interests lie?

I would submit to the deterioration of the situation in South Africa and to a long term, protracted struggle, and to the regional instability that flows will far more jeopardize America's economic and political interests not only in South Africa, but throughout the African continent.

The end will result in much greater economic and other losses to the United States.

Mr. BARNARD. Well, I voted for the bill last time, but I really do think we are neglecting, severely neglecting the impact it will have on some and very few private enterprises. I think we ought to take that into consideration.

But we have not. We have neglected that.

Mr. WOLPE. If I may repeat something I said earlier, I wish there were a way of imposing the kind of pressure that must be imposed upon this regime that would not inconvenience or add to costs incurred by Americans or to the black community inside South Africa.

Unfortunately, there is no cost-free means in this instance. The only question is which side of the war are we going to be on that is evolving in South Africa.

Are we going to allow our money and investments to sustain the South African economy and apartheid regime or make clear we are on the side of change and protection of African national interests which means disassociation from the perception that we are an accomplice to apartheid.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Carper.

Mr. CARPER. Thank you, Mr. Chairman.

I want to thank my colleague for his excellent testimony.

I had a chance to ask during our last vote some of the questions on my mind. The question I would like to ask now just as a follow-up is, one, how much debt, how much American debt held by American banks is outstanding at this time?

Mr. WOLPE. \$3 billion inside South Africa.

Mr. CARPER. \$3 billion. That is the amount we are talking about that can be involved in the potential rescheduling, is that correct?

Mr. WOLPE. Most of it has been rescheduled under the agreement we spoke of earlier in 1985. Some of it has not been.

Mr. CARPER. All right. What steps must the South African Government take in order to gain the rescheduling of whatever debt is in question here?

Mr. WOLPE. The legislation identifies six conditions—the first one is the release of Nelson Mandela and all political prisoners and four of the following five must be achieved for the lifting of sanctions. The repeal of the state of emergency and release of all detainees; allowing all South Africans to form political parties and participate in the political process, the repeal of the group areas of population registration acts.

Mr. CARPER. What is that?

Mr. WOLPE. The fifth is agreeing to enter into good faith negotiations with representative members of the black majority without pre-conditions, and six, the elimination of South Africa's illegal occupation of Namibia.

Sanctions could be suspended or modified if the first condition and four of the five remaining conditions were fulfilled. The first condition is the release of Nelson Mandela and all political prisoners.

Mr. CARPER. I understand you have visited South Africa.

Mr. WOLPE. Yes.

Mr. CARPER. As someone who has been there and studied the situation for a number of years, which of those sanctions do you think the South African Government would be most inclined to make and least inclined to meet?

Mr. WOLPE. Conditions or sanctions?

Mr. CARPER. Which of the four conditions you mentioned would the South African Government be most inclined to meet and least inclined?

Mr. WOLPE. Really, it is difficult for me to forecast that. I will tell you in my judgment that the most significant issue of all is the onset of negotiations. Some means must be found to move this conflict from the streets to the negotiating table.

A good faith negotiation requires the release of Mandela and political prisoners and the freeing up of the political process so they are in some ways linked conditions.

Mr. CARPER. Let me ask you one last question. I am going to ask you to play the devil's advocate. We heard from some of my colleagues raising questions and criticism of the bill. I will ask you to put on the hat, almost to play the devil's advocate, to put on the hat of somebody who has objections.

You heard objections to this bill from our committee and I am sure from others. Just outline for us those objections. Put the best light on those objections, if you will.

Then refute them.

Mr. WOLPE. There are two kinds of arguments that have been advanced. Basically, the broad philosophical argument made by Mr. Burton, minority ranking Member on the Foreign Affairs Subcommittee on Africa, is an argument that says the best way of achieving change inside South Africa is by America remaining engaged in South Africa. He believes that the economic linkages, the positive model of American companies doing business inside South

Africa stimulate change. He believes that if you give people skills, create attitudinal change that will over time produce ultimate democratization.

That is the basic kind of philosophical thrust. The other kind of argument, the one Mr. Barnard was advancing, is, in some respect potentially there is a cost to Americans. I think in very limited ways, there are some potential costs every time we impose sanctions.

There is a cost—a burden—to our own society. We only do that, therefore, when we assess our national interest requires it in the long-term. I would argue that that is clearly the case here.

But those I think are the two kinds of arguments that sometimes are advanced. I would be glad to give you the rebuttal to them.

Mr. CARPER. Would you, please?

Mr. WOLPE. Well, what happens particularly on the first of these arguments—the notion of economic interaction producing change—it is based upon the American experience. There is a natural tendency which I myself have made for many years to juxtapose our own experience in the United States onto the South African case.

There are similarities. We have the history of racism, white supremacy. We have the segregation, the racial inequalities, all of that we know from our own historical experience. But when you go to South Africa—and I wish every American could do that. Until you see it close up, it is hard to comprehend the South African reality.

There are two key differences: one is the majority and minority relationships are altered.

In America, whites can countenance full black political participation without fearing loss of control of the national political system. Whites are the majority. In South Africa, the issue is making sure the majority do, in fact, have their own participation and control over their own lives, which they do not have now.

So the end of apartheid in South Africa will mean a loss of white minority control. It does not mean the exclusion of whites from the political process. It does mean the restructuring entirely of the entire political system in a way that will have majority rule and preservation of minority rights. The stakes of that struggle are different.

Second, and this is the last point, this is a totalitarian police state, Mr. Carper. One of the most thorough and brutal in the world. When South African blacks hear Americans talk about being patient, about it taking time, evolutionary change, those kinds of words are ludicrous to a South African ear.

The fact of the matter is one cannot even call for non-violent change without risking one's life and liberty.

That is the issue. That is why I talk about a war-like situation evolving. We are trying to, with this kind of legislation, mobilize every non-violent diplomatic and economic tool at our disposal.

Reduce the time frame of that struggle and you, therefore, reduce the violence and bloodshed.

Mr. CARPER. Thank you.

The CHAIRMAN. Ms. Pelosi.

Ms. PELOSI. Thank you, Mr. Chairman.

One of the advantages of going last is that most of my questions have been asked by now. I will be very brief.

I would like to commend you, Mr. Chairman, for holding these hearings today and thank our colleague, Chairman Wolpe, for all his hard work on this legislation along with my colleague from the Bay area, Mr. Dellums, for his work on this bill. I am proud to be a co-sponsor.

I commend you for your unceasing efforts to pursue sanctions against the South African Government. I believe we have a moral and political obligation to do everything in our power to force the South African Government to stop its oppression of the majority people of that country.

Having said that, I will follow Mr. Carper's line of questioning about the pre-conditions. In your testimony, you quoted Bishop Tutu about conditions for rescheduling which are very similar, as you indicated, to your pre-conditions for lifting the sanctions.

Our colleague, Mr. Barnard, mentioned that some of these re-scheduled loans, that is the subject I want to ask you about, could be sold in effect at a fire sale to someone else and re-sold back to the South African Government.

Is there any way that refusing to reschedule can benefit the South African Government?

Mr. WOLPE. Not the government, but certain individuals or certain holders who have the outstanding debt could benefit in the short-term.

But if the South African Government believed that countenance this kind of prohibition on rescheduling was in its long-term interest, I assure you they would not be so resistant to this legislation or so concerned at the time the initial denial of rescheduling was announced by the international financial community.

Nothing had greater impact than that temporary decision of the banks to deny rescheduling.

Ms. PELOSI. If it is so important to them, are there any tradeoffs that we can make with the pre-conditions that are in the legislation for this one item?

In other words, if it is a hardship on the domestic side to some of our businesses, this is a sacrifice we all have to make. But on the other hand, do you see any mitigation at all in terms of any one or two, of the preconditions?

Mr. WOLPE. These things are linked. That is the reason why they were phrased in that way. The only way to avoid a blood-bath is get negotiations started.

The CHAIRMAN. Will the gentleman yield for a moment?

I think it is important to remember that those preconditions don't just apply to the rescheduling of loans, but to the entire piece of legislation, all of the sanctions. If you were to tradeoff on, trading off one for like rescheduling, or two, that still leaves all the other sanctions in place.

So I don't think that would really occur.

Mr. WOLPE. I think that is true. Let me say there are a lot of economic interests in the United States, Ms. Pelosi, that would love to see unique treatment. I have had companies come to me, my own constituents that have concerns about this. I suspect those concerns. Many of those companies doing business inside South

Africa have been reputable companies that have done things right in terms of the way they operate inside South Africa, desegregated work places, investments in housing, affirmative action programs, upgraded management skills, all the rest.

But the moment you start providing exemptions on this kind of basis for one particular economic sector, you open up the broader question of why one sector and not another.

The same kind of question can be raised. I would really caution this committee about seeking to provide that kind of exemption because the inconvenience and cost you are hearing from the banking community in this instance are equally borne by others that would be affected by the legislation.

Ms. PELOSI. Make no mistake, I agree with you on that score.

My question really was more toward what advantage redounds to South Africans by the refusal to reschedule? You are saying we can't predict.

Mr. WOLPE. The major impact of the denial to reschedule is to begin to call into question the financial confidence of the entire international community, beginning with the United States. That ripples out.

It makes more difficult the long-term ability of the South Africans to get the credit they require at the rates which they want to pay. It makes it much more difficult for the South Africans to finance apartheid.

Ms. PELOSI. You are——

Mr. WOLPE. In the short term——

Ms. PELOSI. My time is up. With your knowledge of the area, which is obviously considerable, you do not buy the argument that refusing to reschedule the loans and having them sold at a fire sale which will then be bought again by South Africa provides by benefit to South Africa?

Mr. WOLPE. The same argument is being raised with respect to disinvestment. There might be a possibility of a fire sale kind of transaction taking place. I can only report what those who are most affected by this action will tell you, and that is that the economic isolation that is created by disinvestment in the long-term far outweighs whatever short-term advantage may accrue to specific individuals or specific investors inside South Africa.

Ms. PELOSI. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Bartlett.

Mr. BARTLETT. Thank you, Mr. Chairman.

I think the rescheduling issue has been discussed. I listened to your responses, Mr. Wolpe. I suppose for the fundamental issue that we are all still struggling with is the rescheduling a loan, as I understand it, essentially means a bank has a loan in default and they are scheduling payments to get their money back.

Your bill would not allow them to get their money back. Am I over-simplifying it?

Mr. WOLPE. I think so. There is nothing to prevent the South Africans if they choose to do so, or the holders of those who are in debt, to pay it off. It simply prevents their ability to reschedule the debt over a longer period of time.

Mr. BARTLETT. Is there anything that requires them to pay off the debt?

If they are not going to get new debt, can't make the payments, and are in default, how do they get the money back?

Mr. WOLPE. They have incentives to pay off the debt if they wish to have any kind of financial confidence in the broader community.

It is the economics of the situation that compel the paying off of whatever debt is outstanding.

Mr. BARTLETT. As I understand, the only incentive is other banks in other countries may not lend to them if they default on payments to the United States?

Mr. WOLPE. That is correct.

Mr. BARTLETT. I did want to ask you a couple of technical questions about your bill. I inquired earlier informally about the definition of a U.S. person with regard to a corporation. Corporations, most large corporations in the United States are now in some way multinational. Is your definition then where the corporate headquarters is, ownership, membership on the New York Stock Exchange?

I used the example earlier, Exxon Corporation is headquartered in the United States and Shell Oil is headquartered in another country. Is Shell, therefore, not a U.S. person and could continue to do business in South Africa and Exxon is and couldn't?

Mr. WOLPE. Let me read you the definitional portion. "Any corporation organized under the laws of the United States or any State, territory, possession or district of the United States and any partnership, association, corporation or other organization wherever organized or doing business that is owned or controlled by persons specified in subparagraphs (a), (b) and (c)," which includes what you just asked about.

Mr. BARTLETT. Is that shareholders? If it is a publicly owned company, you don't necessarily know the citizenship of your shareholders.

Mr. WOLPE. It is not shareholders.

Mr. BARTLETT. If Shell Oil was headquartered in the Netherlands, it is a Dutch company.

Mr. WOLPE. Only the American subsidiaries would be effected.

Mr. BARTLETT. The only other question, I notice in your bill, you have an exception for substantial transformation. There are some boot manufacturers, for example, in Texas who manufacture boots made out of some of the raw materials that used to come from South Africa. With this bill and the prior bill, as I understand it, those boots would still be manufactured out of ostrich skins from South Africa and could and would then be imported into the United States but would have to be manufactured in West Germany or some other country?

Mr. WOLPE. We formulated that in the same manner the Libya disinvestments were imposed. So where there is substantial transformation, that would not be prohibited. The commodity would not be inhibited.

Mr. BARTLETT. Is the South African Government in any way harmed? Don't they sell the same number of ostrich skins? The same number of Texans buy ostrich skin boots. We buy them from a European manufacturer.

Mr. WOLPE. What we are trying to do is be as practical and effective as possible. We call on other countries to support and join in these sanctions so they become indeed multilateralized over time.

Mr. BARTLETT. Thank you, Mr. Chairman.

The CHAIRMAN. Some of us learned something about the proclivities of Texans for ostrich skin boots. Now, if ostriches ever happen—they say you hide your head in the ground like an ostrich. What is this, feet in the ground like an ostrich?

Mr. BARTLETT. Mr. Chairman, I chose that example. I could have used diamonds, for example, if diamond cutting—which Texans and Rhode Islanders are also fond of diamonds.

The CHAIRMAN. Rhode Islanders are fond of them but can't afford them.

Mr. BARTLETT. Texas used to be able to afford them. We can still afford or ostrich skin boots.

The CHAIRMAN. Mr. Price?

Mr. PRICE. Thank you, Mr. Chairman. I have no questions at this time.

The CHAIRMAN. Mr. Chairman, we are most grateful to you for spending this time with us, but it also indicates the deep dedication you have to this legislation and the great deal of work you have done in this area. We are most grateful to you for your presence here this morning and your consideration.

Mr. WOLPE. Let me thank you and your colleagues for giving this legislation this kind of consideration. It is deeply appreciated.

The CHAIRMAN. Thank you.

The CHAIRMAN. The next panel is Charles Freeman, Jr., deputy assistant secretary for African Affairs, Department of State; Treasury, Richard Newcomb, director, Office of Foreign Assets Control; William McFadden, deputy director, Office of International Banking and Portfolio Investment; and also Cecelie Blakey, political director of TransAfrica.

STATEMENT OF CHARLES W. FREEMAN, JR., DEPUTY ASSISTANT SECRETARY FOR AFRICAN AFFAIRS, DEPARTMENT OF STATE

Mr. FREEMAN. There appears to have been some slight miscommunication between staff. Under longstanding administration policy, the administration appears separately from private witnesses, and I don't have any authority to deviate from that policy.

The CHAIRMAN. I am not aware of that. The Chair has been conducting hearings for 16 years through many administrations. I never heard of this before.

The fact of the matter is, we are going to hear from all three witnesses. Then we will question the witnesses separately. We who are from Treasury, State, get their statements supporting the record, hear from the two witnesses and then from the third witness. That gives the Members of the Congress, the House, the committee, an opportunity to question the various witnesses, and after State has given an answer or Treasury or TransAfrica, we can go back and give Treasury or State an opportunity to give their answers to that same question.

It makes for a much more informative hearing and, as I say, this is a brand-new policy to this chairman because time after time

again, we have had people from the administration sitting down at the same time as people from the private sector, with the regulatory agencies. We do it all the time. Home Loan Bank Board sits down with the panel, the ABA, the U.S. League and the FDIC.

This is brand-new, sir. I think it was this morning when I got the phone call, about 9:30.

So there was no miscommunication, Mr. Secretary. I assure you. No miscommunication. This has been tradition.

Mr. FREEMAN. I don't have authority, Mr. Chairman, to deviate from the policy which I described; that is for the administration to state its position and submit to questions, and then I do certainly agree with you, you should hear the private witness whom you have called. In complying with a policy which I have been advised has existed for many years, we are not at all expressing disrespect either for the committee or the private witness, for both of whom we do have great respect.

The CHAIRMAN. I am confused. We are going to question Treasury, State, we are going to question TransAfrica, or whoever. If we had the ABA; what would you do if the ABA were here? We would certainly have entertained them, and been happy to have testimony from them as well.

We are going to question you at the same time. You want to have Ms. Blakey step back while you testify and you step back while she testifies, and I bring you all back for questioning? Does that make you happy?

Mr. FREEMAN. The policy is, we will present the administration's views and submit to questioning by the committee, and then if the committee wishes to hear private witnesses, as we think you should, we will excuse ourselves.

The CHAIRMAN. Why don't you just put your statement in the record. You are not going to submit to questioning at the same time as we question—

Mr. FREEMAN. I don't have authority to do that, sir.

The CHAIRMAN. As far as this—this doesn't make sense.

Mr. FREEMAN. Would you like us to submit our statements for the record?

The CHAIRMAN. That would be fine.

Mr. FREEMAN. Fine. Thank you, sir. We will do that.

[The prepared statement of Charles Freeman can be found in the appendix.]

The CHAIRMAN. Does that apply to Treasury as well?

Mr. NEWCOMB. Yes, sir, it does.

[The prepared statement of Richard Newcomb can be found in the appendix.]

The CHAIRMAN. Ms. Blakey, you may proceed.

STATEMENT OF CECELIE BLAKEY, POLITICAL DIRECTOR OF TRANSAFRICA

Ms. BLAKEY. I would like to thank the Chair for allowing me to present testimony but I would be equally willing to submit my testimony to the record, if this is a fundamental problem. We have no problem appearing on the same panel with the Government. If

they are troubled by my appearance, I am willing to submit my testimony for the record.

The CHAIRMAN. We would like to have you, Ms. Blakey. Then we have some questions for you.

We will submit our questions to Treasury and State in writing.

Ms. BLAKEY. I wanted to state for the record that I was as willing as they were to step aside and submit my testimony.

You have my prepared testimony in front of you, but since I am now the only witness at this table, for the sake of time, I will simply sum up the testimony by saying that the limited sanctions which were passed 2 years ago have not worked as effectively as they might have, partially because they have not been implemented as fully as they could have been, but also because we have always understood that sanctions are a long-term solution and need to be applied as extensively and multilaterally as possible.

We are hoping that whatever sanctions are applied this time will be taken by the next President of the United States to the U.N. Security Council and approved by the members of the U.N. Security Council.

We would like to remind the committee and the administration, particularly those Members who are concerned about the advantages that might be taken by foreign banks, that the U.N. Security Council attempted to globalize the congressional sanctions that were passed and the United States vetoed that measure. If that measure had been approved by the United States, it would not have been an issue. There could have been no circumvention or advantage taken by foreign banks or foreign businesses.

The CHAIRMAN. Does that complete your statement?

Ms. BLAKEY. Again, you have the prepared statement.

The CHAIRMAN. Without objection, it will be put in the record.

[The prepared statement of Cecelie Blakey can be found in the appendix.]

The CHAIRMAN. You were present when the questioning occurred of our colleague, Chairman Wolpe. As you heard, one of the principal questions, or the principal question, came with respect to the section that addresses the rescheduling of loans. I wondered if you had any comment to make on that particular section?

Ms. BLAKEY. Yes, I do.

The CHAIRMAN. Anything beyond that made by Mr. Wolpe.

Ms. BLAKEY. I would like to suggest, the question was raised about South Africa's ability to repay their loans and the probability of them defaulting. I would like to suggest that since the apartheid government's police budget is \$1.5 billion, about half of what they owe the U.S. banks, and the defense budget is \$6.7 billion, and because they are located in a region in which none of the neighboring states have the capacity to attack them, they should have no problem repaying their debt.

The CHAIRMAN. Mr. Wylie?

Mr. WYLIE. We will hear when this bill gets to the floor that there is a disagreement in the black leadership in South Africa about economic sanctions. Are there, in fact, some black leaders who oppose additional sanctions because they think it might negatively impact on the employment opportunities for blacks?

Ms. BLAKEY. Yes, Mr. Congressman. There are also white leaders in South Africa who support these sanctions.

I think it is important to note that the situation in South Africa has gross racial manifestations but is not a racial issue. There are people of all races, all ethnic groups on every side of this problem, just as there are in many other parts of the world and in this country.

Mr. WYLIE. Have sanctions-busting efforts by the South African Government diminished the economic impact of the U.S. Government sanctions?

Ms. BLAKEY. Let me just say the U.S. sanctions have not really been in place long enough to say that any sanction-busting effort has resulted in the diminishment. It has been 2 years. As I said, sanctions are a long-term approach.

I would say if the effectiveness of the sanctions have been limited by anything, they have been limited by the regulations promulgated by the Executive Branch.

Mr. WYLIE. Do you think that blacks have lost jobs as a result of the last sanctions bill?

Ms. BLAKEY. The only jobs that I have heard may have been lost have been in the coal-producing sector, and the National Union of Mineworkers trade union which represents the coal workers happens to be a leader in COSATU, the trade federation which is clearly in support of further sanctions. It is the National Union of Mine Workers, which you may remember lead a strike earlier in September, 1987, in which some hundreds of thousands of workers were fired. But those workers were fired because of corporate and government decisions, not because of sanctions.

Mr. WYLIE. Thank you very much, Mr. Chairman. Thank you.

The CHAIRMAN. Ms. Pelosi?

Ms. PELOSI. Thank you, Mr. Chairman.

I would thank Ms. Blakey for her appearance here today and her fine testimony. I want to ask you two questions. You have heard us discuss earlier today the question on the rescheduling of the loans. Could you comment on that, please?

Ms. BLAKEY. I would have to share Congressman Wolpe's assessment, that it was the banking community's unwillingness to reschedule the loan in 1985 which has been the most important factor, and in a sense provided the only window of optimism in the last few years.

It was precisely at the time when rescheduling was in question that the government made some steps toward reform; but twice before in South African history, the banks intervened on the wrong side. Once in 1960 after the Sharpsville massacre when banks stepped in to shore up corporate support for the government and faith in the ability to continue; and once again after Soweto in 1976. It was the banking community that helped to rebuild international financial confidence in the apartheid regime.

The banks have had a fairly ugly history.

Ms. PELOSI. Ms. Blakey, on another subject, do you think that the government of South Africa is capable of meeting the pre-conditions in this legislation to lift the sanctions?

Ms. BLAKEY. Certainly. They are only required to meet four of the five pre-conditions. None of the pre-conditions would affect minority rights.

Ms. PELOSI. So there can be reason to be hopeful that this legislation can result in some changes in South Africa in addition to the statement that we want to make against apartheid?

Ms. BLAKEY. Well, they are certainly capable of meeting the conditions. Whether they have the political will to meet the conditions is another question.

Ms. PELOSI. That is really what I meant, capable in terms of their love for their country, however that is measured, whatever the virtue is. Capable, yes, they are in charge.

Is there any reason to believe they would take action?

Ms. BLAKEY. Yes. We are optimistic about prospects for change in South Africa, partially because more and more Afrikaners are dissenting from their government. The younger Afrikaners particularly are refusing to serve in the army, in the townships, and in Namibia. There are prospects of change, and we are hopeful that just as in the case of Rhodesia, the implementation of sanctions, multilaterally, led by the United States perhaps, with a new President, will result in more and more South Africans, again of all races, coming to the realization that it is better to negotiate the end of apartheid than to suffer an economic loss and discomfort.

Ms. PELOSI. Thank you, Ms. Blakey.

Thank you, Mr. Chairman.

The **CHAIRMAN.** Mr. Parris?

Mr. Parris, before you go, I would like to have unanimous consent to place in the record subsequent to the statement placed in the record on behalf of Congressman Dellums, our colleague, a statement from Congressman Garcia, a Member of the committee. I would like his statement to appear immediately after that of Mr. Dellums.

[The prepared statement of Hon. Robert Garcia can be found in the appendix.]

In addition, immediately prior to the statement of Ms. Blakey that has been placed in the record, we shall place in the record and subsequent to the colloquy between myself and the administration representatives, we shall put in the statements of both the State Department and the Treasury Department. Is there objection? The Chair hears none.

Mr. Parris?

Mr. PARRIS. Thank you, Mr. Chairman.

Mr. Chairman, I wanted to reemphasize my appreciation for the candor of our colleague from Michigan, Mr. Wolpe, previously in his testimony when he conceded that sanctions will in and of themselves not terminate the apartheid that exists there, and we should have no illusions about his word on that score.

I just want to pick up from where my friend from Ohio left off in regard to his questions about how sanctions impacted more severely in that troubled nation? I had the opportunity several years ago to sit with Mr. Buthelezi, the King of the Zulus, who as you know is a strong opponent of sanctions.

He thinks sanctions are a terrible idea and has said so in my presence, in our conversation. He said to me, and he is the leader

of the largest organized group, if that is the correct words, of black persons in South Africa itself.

He says, the sanctions that have been imposed—this was a year or so ago—have impacted more adversely on my 5 million people than on anybody else. And if that is true, and I have no reason to believe it is not, it creates some enormous complications for those of us, all of us, I think. That very much troubles me if the impact of what we are trying to do here impacts adversely on the people whom we are trying to help the most.

That creates some real controversy in regard to the necessity, the assessment of the desirability of this legislation. I had hoped to address my question to the Treasury representative. I understand we were not going to have that opportunity now.

My question deals with the precision of the language. We are, after all, talking about making law for the United States. One of the most troubling provisions in this bill to me is the disinvestment requirement of assets of American citizens.

The requirement by this Government to make an American citizen disinvest within a very short time an investment in assets he or she acquired at a previous time. Where I am troubled is under section 6 of this bill, as I understand it, section 6 requires retaliation against foreign persons, including companies, that "take significant commercial advantage of any sanction imposed under this legislation."

Now, I would like very much to have somebody explain to me what is covered by the term "significant commercial advantage." My question is, would it cover new loans or equity investments by foreign persons in the enterprises from which Americans are forced to disinvest? If so, are we, in fact, creating a monster when anyone who dares to buy assets or loans of Americans including American banks, when they are trying to sell them under section 301, the person buying that asset would be subject to retaliation for the simple act of purchasing the asset.

Is my reading of that, the implications of that section correct? If so, isn't that tantamount to this Government saying to American citizens, if you have any assets remaining in South Africa, that you must disinvest under this provision, that you will lose 100 percent of the value of that asset unless they can be sold to South Africans with money, which means in fact the white group who invested apartheid and whose economic stranglehold over the non-white population is thereby enhanced?

Because if American citizens must divert, the only person that can buy them, in my reading of that section, is a white South African. Can you help me with that?

Ms. BLAKEY. Forgive me if I am wrong, but I thought I heard at least implied three questions. One was about Chief Buthelezi and his representation; the second one I thought was about the precise language of the bill and the legislative intent, the comparative section.

Although I am not a legislator, so I cannot speak to legislative intent, my understanding of these two provisions was simply to mandate what was called for in the Comprehensive Act of 1986 which has not been implemented by the administration.

That was to provide for penalties through the trade office for countries or companies that, for example, attempted to fill a vacuum in, let's say, computers. So, if a Japanese firm attempted to sell computers that IBM or another American company could not sell to the apartheid apparatus, then our trade council could impose tariffs or some other kind of economic penalty.

As I remember the debate around that provision, it had a lot to do with our own trade deficit and the fact that we should have this measure so that we could take advantage of problems in trade.

I don't know about sales and, as I said, I am not a legislator. I can't speak to that. Let me go back to Mr. Buthelezi. I must say, his claim to represent the Zulus is unfortunate in this time, because the majority of South African people are trying to build a society that moves away from racial and ethnic categorization. It is as if a person in the United States claimed to be King of the Italians or King of the African-Americans, King of the Hispanics.

They are really moving away from that. You can find, as I said before, people of every ethnic group and racial category on every side of this issue, and there are plenty of Zulus in the African National Congress, in SWAPO, and there are plenty of people who may be classified as coloured, as I suppose I would be in South Africa, who do not support sanctions or disinvestment.

It really has nothing to do with Zulus or any other ethnic group. I think Mr. Buthelezi should be a little more honest and admit or at least express the fact that when he travels to this country to take those positions, his way is often paid, his accommodations are paid, by major corporations who like to hold him as a symbol.

But it is a symbol which is beyond its time. If he wants to say he represents a particular political position, fine.

Mr. PARRIS. Ms. Blakey, I don't know if he is the King, whether we should call him president, chairman, whatever. There are 5 million black people in South Africa that look to him for leadership. My only point—my time has expired—my only point is he is a person in the country, on the scene, with direct involvement daily with 5 million people. I think that is an important point of view.

Ms. BLAKEY. There are more people in COSATU (the Council of South Africans Trade Unions). They represent workers. The so-called workers—and I say so-called, because they are moving away from those categories—don't have a job anyway. The unemployment rate is 40 percent. A lot of those Zulus are in the homelands. Again, if he represents a position, fine. But I don't think it is one held only by people of any particular ethnic group.

Mr. PARRIS. I agree with that.

Thank you, Mr. Chairman.

The CHAIRMAN. Just as the fact that I represent close to 500,000 people and they don't all agree with what I believe in. I would assume the same applies to you in your district. For the man to say that he speaks for 5 million people might be a little bit off the mark. We might have to reduce the number slightly.

Mr. PARRIS. If the chairman would yield for just a moment, I think that is self-evident to all of us. I am a Republican. I know some Republicans that don't speak for me in terms of my point of view. That is not my point, Mr. Chairman.

When two people agree on everything, one of them isn't thinking. The point I am trying to make is that this person is in a position of real leadership in South Africa. I think his point of view should have some credibility.

Ms. BLAKEY. I would just have to say that Queen Elizabeth does not speak for all English people. They never voted for her. No one ever voted for Chief Buthelezi, either. He is an anachronism from feudalism, if anything.

The CHAIRMAN. Mr. Carper?

Mr. CARPER. Thank you, Mr. Chairman.

I would appreciate if you could give me information on the political dynamics that work in South Africa today with regards to the political parties. What is happening among the whites, with regard to the limited steps that have been taken? Could you help me with that?

Ms. BLAKEY. There are people of all persuasions within every ethnic and racial group. Among the white minority, there are two major language divisions, Afrikaners and the English speakers. At one time the English-speaking whites were almost always considered to be more liberal than the Afrikaners. Somewhere within them there is a subgroup that is thought to be hard-liners, and on and on and on.

Today the divisions are something like this. The nationalist party still holds the majority in the parliament. To its right, if you can conceive of that, are the conservatives, who feel that the nationalists are moving too quickly in their reforms of petty apartheid. By petty apartheid I mean, for example, changing the names of certain laws, although fundamentally the laws haven't changed, or allowing, for example, people of mixed race to visit certain beaches that they could no longer visit—that kind of thing.

To the left of the nationalist party are the progressives—I suppose best represented by Helen Suzman—who for years have been advocating apartheid, but do not support sanctions and disinvestment.

To the left of them are the people who support things like the end conscription campaign (ECC), young people refusing to serve in the military. I'm sorry, I skipped a group, because there are many. Somewhere between them are the people who have broken away from the Progressive Federal Party, people like Frederik van Zyl Slabbert, who led the Afrikaner delegation to Senegal. These are people who have come to think that parliament has become irrelevant and who are working more closely now with the United Democratic Front.

I should say the groups I have been talking about are simply representative of the white minority range of views. But perhaps the most important group in South Africa is the United Democratic Front, which is deliberately and purposefully nonracial. I say non-racial instead of multiracial because the South African Government likes to claim that it is multiracial. But it is multiracial in the sense they are all different races, but they can't touch.

The United Democratic Front does not like to define people by groups. They define them as individuals. There are whites, coloreds, Asians and blacks within the Democratic Front, just as

there are in the largest trade federation, COSTU people of all races and religions.

You can only talk about the whites because they are the only ones that have voting rights. The other parties that exist, such as the party that the coloreds, again, people I suppose that would look like myself, and the so-called Asians have, only serve in an advisory capacity to the white parliament, which has veto power over any decisions the subordinate bodies might make. The subordinate bodies can only make advisory decisions affecting their own racial group.

I know it is convoluted, but that is the situation.

Mr. CARPER. Maybe that is why I didn't understand the situation so well.

The changes that have been adopted, several referred to earlier by Representative Wolpe in his testimony, how have those changes affected the composition of the white, the political parties in support of the whites?

Ms. BLAKEY. I am not sure what changes you are referring to.

Mr. CARPER. Mr. Wolpe was here and talked about the changes made in order to avoid previous sanctions. I think he talked about changing the past law.

Ms. BLAKEY. As a result of those changes, there has been a proliferation, or increase in membership in the conservative party. Again, the rural Afrikaners particularly are becoming concerned that the nationalist party was moving too quickly.

On the other hand, the fact that these changes were so minor relative to the profound problems in South Africa also triggered this splintering from the Progressive Federalist Party and those delegations of Afrikaners that went to Senegal, Zambia, and so forth, to meet with the African National Congress (ANC). That rate of change was too slow for some people or too fast. So it hastened the demise of any kind of monolithic grouping within the white community.

Mr. CARPER. Thank you.

The CHAIRMAN. Ms. Pelosi?

Ms. PELOSI. No further questions.

The CHAIRMAN. Mr. Parris?

Mr. PARRIS. Ms. Blakey, you are an American citizen, right?

Ms. BLAKEY. Yes.

Mr. PARRIS. How many times you have been in South Africa?

Ms. BLAKEY. Unfortunately, they have never approved a visa of mine.

Mr. PARRIS. You have never been?

Ms. BLAKEY. No.

Mr. PARRIS. OK. I want at this time, Mr. Chairman, to once again raise a question in regards to section 6. The staff reminds me that the way this section is, I think, appropriately, and in their view appropriately read, is if a foreign bank provides financial assistance for the purpose of a U.S. firm or a citizen's financial interest in an asset that now exists, the President of the United States over this bill must retaliate against the foreign bank in both ways. That is, limit the importation of services, or; two, and this is the important part, restrict that financial institution from contracting

the Department, agencies and instrumentalities of the U.S. Government.

The question is, would that thereafter, thereby restrict such foreign institutions from purchasing or dealing in T-bills or other U.S. Government debt? What would this do to the ability of this Nation, if that is true, and I submit that it is, what would that do to our ability to finance the Government debt, a substantial portion of which is currently held by foreign institutions?

The point of all of this, Mr. Chairman, is, has there been an analysis of the impact of the U.S. interest rates? The Government deficit as a result of the retaliatory provisions, assuming that is the law we are about to make? And I submit that it is.

The Treasury Department has not really made any kind of quantitative analysis. We are unable, unfortunately, to address that question. But I submit to my colleagues that if any of that is correct, and the staff thinks it might be, then we might be doing indirectly and in the kind of a clandestine law of unexpected consequences, we may be shooting ourselves right in the head in terms of the T-bill markets and the financial implications of this legislation.

It is not a simple question of all of us being concerned about the impact, the social impact of discrimination against black citizens in South Africa. I thank the chairman.

The CHAIRMAN. Are there any further questions?

If not, the—

Ms. PELOSI. Mr. Chairman, with your permission, may I ask for the record for Ms. Blakey to give a brief description of TransAfrica?

Ms. BLAKEY. Certainly.

TransAfrica is the national foreign policy organization which primarily represents African-Americans. Although we are best known for our work against apartheid, we work to articulate the concerns of the African-American community toward various aspects of U.S. foreign policy.

I would like to state that African-Americans can in some way be considered the first victims of U.S. foreign policies because our ancestors did not come here by choice. As an organization, we feel that African-Americans often have a unique viewpoint on U.S. foreign policy, whether it be toward the Pacific Islands, or toward South America, toward Central America.

We work both to educate our community and to express the views of our constituency to the Congress and the executive agencies.

Ms. PELOSI. Thank you, Ms. Blakey.

Thank you, Mr. Chairman.

The CHAIRMAN. Ms. Blakey, you mentioned in answer to a question that you have never been to South Africa. Would you tell us why in a little more detail, and define—you know, rather than they—tell us who.

Ms. BLAKEY. The South African Government, as represented by the South African Embassy, has consistently denied visa applications by many Americans, including Congressman Wolpe. So, I don't take that denial personally.

The CHAIRMAN. Have you ever actually applied for a visa? Or were you told not to apply?

Ms. BLAKEY. No, I was not told to not apply. And no, I have not actually applied for a visa myself, because I have a long personal history of work against the apartheid system. And many others who are less well-known than I am have had their visa applications denied.

I would just like to add that although I have never been to South Africa, I have never been a slave, either. But I would like to think that I don't need to have been a slave to be against slavery.

The CHAIRMAN. There is no doubt of the fact that many of us vote on items that affect countries, some portions of this country that we have never been to or seen. But that is a way of life. You can't go to every place yourself physically. You have to rely on information available. And believe it or not, the media, and so forth.

We thank you very kindly. We may have some additional questions to submit in writing. But we appreciate your appearance this morning. I think it has been very helpful to the Members of the committee.

The committee will be in recess until 2, at which time we will reconvene to engage in the mark-up of the legislation. I might mention to the Members that we did indeed receive permission from the House to sit during the 5-minute rule.

[Whereupon, at 12:41 p.m., the hearing recessed, to reconvene at 2 p.m., the same day.]

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APPENDIX

THURSDAY, JUNE 2, 1988

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STATEMENT OF REP. RONALD V. DELLUMS (D-CA)

BEFORE THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

U. S. HOUSE OF REPRESENTATIVES

JUNE 2, 1988

I thank the Subcommittee for the opportunity to appear before you today.

I come here with a sense of deep concern about the worsening situation for the Black majority population in South Africa, who are suffering more than ever from the oppression of a racist apartheid regime. As a means of responding to this crisis, and in an effort to help resolve it, I have sponsored H.R. 1580. This bill is currently co-sponsored by 123 of our colleagues and is strongly supported by literally hundreds of church, labor, anti-apartheid and human rights organizations.

In essence, this comprehensive sanctions legislation would one, require the withdrawal of all U.S. investments from South Africa; would two, impose a ban on trade between our countries; and would three, prohibit cooperation between our military and intelligence agencies.

The major thrust of this bill is to call for immediate divestment and total embargo against the Government of South Africa. I call for comprehensive sanctions against South Africa, not an incremental step, not a measured step, but an all-out, powerful, aggressive statement.

Why, Mr. Chairman? For several important reasons. I believe that it is a moral and political imperative that the Government of the United States make a powerful, clear, clean, unambiguous, uncomplicated, unequivocal statement about the deteriorating situation that unfolds in South Africa at this moment.

That is a statement that we should make to ourselves as a Nation, a statement we should make to the people of South Africa, and a statement we should make, indeed, to the entire world.

First, Mr. Chairman, to ourselves. We are a multiracial Nation. We are a Nation of blacks and whites and browns and reds and yellows. We are a Nation that went through pain and suffering and sorrow as we attempted to invoke civil and human rights in this country; as we attempted to struggle to say to millions of human beings in America and around the world, that people can function and flower and grow and realize their fullest and total potential as human beings beyond race, beyond sex, beyond class, and beyond age.

We struggled in this country. People died and people went to jail. People's careers were broken as a result of that effort. So we must be internally consistent, Mr. Chairman. There must be some internal integrity to the statement made.

Further, we cannot be progressive at home and reactionary abroad or vice versa. Foreign and domestic policy have an intimate relationship. They are mirror images of each other.

We cannot be in bed in some fashion with the evil and the horror and the oppression of South Africa, and adequately and profoundly and morally and ethically say to the millions of human beings in this country, that race is no longer a factor, that we are equal human beings.

So we must make this statement to ourselves because there is healing and progress that must take place in this country.

I suggest that the struggle against apartheid in South Africa is as much about alleviating oppression in this country as it is about a statement we make with respect to South Africa.

If we say that we stand for Democratic principles; if we say that we stand for a commitment to human rights, civil rights, a commitment to a constitutional form of government, a respect for human life and human dignity, the quality of human beings, then that says very powerfully and very loudly to the South Africans and to the world community that we oppose apartheid, thus stating that our foreign policy has risen above the narrow confines of the cold war, and clearly asserts what we stand for. As Americans we must reaffirm our unyielding commitment to the principles of human dignity and personal freedom for all, regardless of race, gender, national origin or economic status. To the racist regime in Pretoria we must send an unequivocal message of our determination to hasten the end of that repressive system that enslaves and demeans our fellow human beings. Finally, we must assert our moral leadership in the global community by leading the collective international effort to terminate any dealings with a government that engages in the deliberate, sustained repression of the overwhelming majority of its people.

On June 18, 1986, the House of Representatives took a significant step against apartheid, with the passage of an almost identical bill. But the very short time left at the end of the 99th Congress required that the House acquiesce to a much weaker Senate bill. That bill became law over the President's veto.

The present law is a step forward. However, I firmly believe that only full and comprehensive sanctions, implemented internationally, will cause the South African government to change its policies.

The present law only establishes partial sanctions. The Administration's implementing regulations have further weakened it. For example, the present law prohibits imports of South Africa and Namibian uranium and uranium ore. The Administration has construed the law in such a context as to permit a special exemption for these items.

There are serious allegations regarding lack of enforcement of the present law. For instance, the Customs Service has conceded, according to the AFL-CIO, that at least \$630,000 dollars worth of South Africa textiles and apparel entered the United States during the first half of 1987 "possibly in violation" of the law. The AFL-CIO also reports that multi-millions of dollars worth of possibly illegal iron and steel imports have entered this country.

In too many instances legislation has allowed "business as usual" in many sectors of the South Africa economy. For example, the law contains a ban on bank loans to South Africa, and then exempts short term credits. Short term trade credits are defined as credits provided by a financial institution for a trade transaction. The duration of that credit extension is no longer than one hundred and eighty days. As of September 1987, almost a year after the passage of the law, \$2.954 billion in loans were given to South Africa by U.S. banks, according to the Federal Reserve's U.S. Quarterly Country Exposure Lending Survey. Of those loans, an estimated 60-65% or approximately \$1.997 billion are SHORT TERM TRADE CREDITS that are exempt in the present sanctions law.

Effectively, there is no ban on bank loans to South Africa. Loopholes and exemptions exist in many crucial sections of the present law. Not only is this a fraud on the millions of Americans who avidly called for sanctions in 1986, it is telling the South African government that the U.S. is not serious about economic sanctions; and that the U.S. is more concerned about the \$1.997 billion in short term credits than it is about apartheid's repression of Black South Africa.

My bill is a clear and forceful measure. It is unambiguous, more easily enforced, and will stop the "back door" financing for the South African government and the apartheid economy. The prohibition of loans and "other extension of credit" to the South African government and businesses operating in South Africa can close the short term trade financing loophole.

Comprehensive sanctions may not produce dramatic results immediately. But the history of economic sanctions show that sanctions have achieved many important successes. The Reagan Administration acknowledges this in its commitment to place strong sanctions against Panama. Moreover an important study, the Starnberger Institute Report, shows that strong multinational sanctions by the western nations would have serious effects on the South African economy and would bring great pressure on their government.

The key to such a policy is disinvestment. Seventeen percent of South Africa's capital comes from abroad. A State Department study puts the total U.S. investments in South Africa at \$14.6 billion in 1984. This includes direct investments, investments through subsidiaries of U.S. companies based in third countries, short term loans from U.S. banks and portfolio investments in South African stocks.

U.S. corporate investment is important in its aggregate. It is particularly important in that much of the investment is in key sectors of the economy such as energy, computers, and transportation.

South African officials are well aware of the impact of U.S. companies. A 1978 State Department cable on South African attitudes toward multi-national corporations, released by the American Friends Service Committee says: "[the South African government's] stake in the multi-nationals is very large, not only for obvious economic reasons but because they execute a straining effect on policy-makers abroad."

In November 1983, Prime Minister Botha stated "Foreign capital investment was important to South Africa because it complemented domestic savings to finance investment, affected favorably the balance of payments, often involved transfer of technology know-how, and, sometimes, immigration of managers or highly qualified technical people."

The situation in South Africa is steadily deteriorating. Standing on the extensive list of South Africa's apartheid atrocities in the southern African region is Pretoria's attack on the children of southern Africa. Inside South Africa, the White Paper Parents Support Committee and the Black Sash reported that in February, 1987, that scores of thousands of people had been detained during the state of emergency declared in the last half of 1986. Over 40% of those detained were children under the age of eighteen. Some were as young as ten years old. The reports of beatings, torture, rape and murder by South African security forces and prison officials are a shocking testimony to the increased brutality and injustice of the apartheid regime.

According to the 1987 UNICEF report State of the World's Children, South Africa's military aggression in the region has made southern Africa to have the highest death rate among children in the world. Forty percent of child deaths in Angola and Mozambique are directly attributable to the effects of South African sponsored aggression.

Repression by the government has touched every sector of South African society. All print and electronic media coverage inside South Africa has been restricted by the government. Foreign reporters, local newspapers, and reports have been censored, questioned, detained, and even expelled under security legislation. The incredible suffering of South Africa's black majority is continuing, beyond the view of responsible press scrutiny and under conditions of unrestrained brutality and official violence.

The South African government has also instituted new draconian regulations further limiting any opposition to the apartheid system. It has banned even the non-violent anti-apartheid organizations of South Africa and has prohibited the unions from engaging in political acts against apartheid.

The South African government policy of apartheid is already an extreme form of repression, but the recent wave of crackdowns and police repression make it even more terrible.

Many say that comprehensive sanctions are an extreme approach to the situation in South Africa. I say that the extreme apartheid system, as shown in the recent outrageous actions by the South African government, requires immediate and definite action by the U.S. government. Comprehensive sanctions, such as the disinvestment and the trade bans are the necessary response to the deteriorating conditions inside South Africa and Namibia.

Most acknowledge the situation inside South Africa, but some question the effects of full sanctions.

Some assert that sanctions hurt Black South Africans most. To that I say Black South Africans are ALREADY hurting. They have overwhelmingly called for comprehensive sanctions as a short term pain, long-term gain situation. Without sanctions, the government represses them. With additional sanctions, the government may continue to repress them, but only for the short term, because comprehensive sanctions, globally applied, will break the economic and financial back of apartheid. When the South African government can no longer afford the \$500,000 per day it spends to occupy Namibia, or the millions per day it takes to keep troops in the townships, run the police force and implement the ludicrous apartheid laws, the pressure on white South Africans will become intolerable. It is white South Africans, the people who are benefitting from the apartheid economy, who will be hurt the most by sanctions.

The effect of a U.S. pull-out would affect less than 1% of the Black labor force. But, even if it were more, as the late Steven Biko said, "The argument is often made that the loss of foreign investment would hurt Blacks in the short run, because many of them would stand to lose their jobs. But, it should be understood in Europe and North America that foreign investment supports the present economic system of political injustice. If Washington is really interested in contributing to a development of a just society in South Africa, it would discourage investment in South Africa. We blacks are perfectly willing to suffer the consequences. We are quite accustomed to suffering."

The Congress of South African Trade Unions (COSATU) and the National Association of Trade Unions (NACTU) have taken a clear and unequivocal stand for comprehensive sanctions. COSATU also specifically supports a call for:

- stopping loans and credits
- diplomatic isolation of South Africa
- refusal of foreign visas to South Africans
- withdrawal of landing rights for South African aircraft
- disinvestment from South Africa

Many try to claim that increasing black unemployment in South Africa is a direct result of U.S. sanctions. Some of those same people then contradict themselves and argue that U.S. sanctions have no effect on South Africa. As to the first point, unemployment among black south Africans BEFORE sanctions was already around 40-50% (higher in the so-called bantustans). This statistical estimate comes from the Black Sash in South Africa. Therefore, to blame limited U.S. sanctions for 50% unemployment in South Africa is ignoring the facts and helping to spread South African government propaganda.

Some argue that by disinvesting, the U.S. will lose leverage in South Africa and that U.S. companies will no longer be able to provide scholarships and do other beneficial things for South African blacks. This argument had new life breathed into it by the President's October 2nd report which claimed that \$200 million had been spent by U.S. corporations on programs for black South Africans over a ten year period, and that this justified continued corporate presence in South Africa. In the years 1977-1985 these firms gave the South African government over twenty-seven times in income tax and over sixty-nine times in total taxes, that which they spent on the Sullivan principles. Over \$8 billion in total taxes has been given to the South African government to finance the continued apartheid occupation of Namibia and the repression of the black majority. These corporations also continue to supply South Africa with the equipment, parts and vital technology necessary to automate and regulate the apartheid system. To accept the argument that corporations are doing good for blacks is to accept that a plantation slave owner was doing good for blacks in the U.S. by providing food, clothing and shelter for his slaves. We should not reward the oppressor by applauding his token gestures toward a selected few Blacks, while he continues to oppress the majority for profit.

The cold reality is that the majority of Black South Africans never even have access to any U.S. corporations or their programs. That \$200 million in corporate program money is \$200 million that the apartheid government can redirect toward repression. The educational system for blacks is already a travesty! When U.S. corporations supplement that system by financing segregated Bantu education, we are financing the apartheid structure -- lending tacit approval to a racist system of inferior education for blacks. How can Mobil or Johnson and Johnson claim to be helping blacks by providing scholarships to study in the U.S. to the tune of less than \$10,000 per year (1987 figures from the Institute for International Education), while also providing the resources to fuel the army vehicles used to facilitate killing the brothers and sisters of scholarship recipients in the townships and in the Frontline states and in Namibia?!

U.S. corporations are in South Africa to make money. They have been there for 60+ years, and it isn't until now, when the sanctions pressure is a reality, that their benevolence has emerged. No U.S. corporation operating in South Africa makes more than 1% of its profits in South Africa, and no U.S. corporation will entirely shut down internationally or in the U.S. if it loses its South African operations. Our bill will raise the cost of supporting the apartheid system and nullify that profit margin.

There are those that say sanctions won't work. Just as Rhodesia claimed to be impervious to international sanctions, South Africa tries to pretend that it is less vulnerable to economic pressure than it really is. Unfortunately, when they say such things an uninformed American public, too many people are inclined to believe them. In spite of South Africa's "we don't need you" public attitude, in reality they are very much concerned about what goes on here. The South African government and parastatals spent over \$52 million between 1985-1988 on their 37 foreign agents, working against sanctions and toward improving their image in the U.S. (Department of Justice Foreign Agents registration). If South Africa is not vulnerable to what we do here and if our actions don't affect them why are they investing so much in convincing us of their positions? U.S. sanctions WILL HURT South Africa. Because of that, and because of U.S. influence with other Western nations, we do have leverage on South Africa.

When bank loans, computer equipment and parts, technology, profit re-investment, all trade and all investment are prohibited, apartheid will not immediately fall the next day. But, it will raise the cost of maintaining apartheid for the white South African government. White South Africans have the highest standard of living on the African continent because they are reaping the benefits of the exploitation of 24 million black South Africans. When that standard of living falls, when the South African bankers and traders making millions can no longer make those millions, and when South Africa is completely isolated from the international community, apartheid will be at a breaking point. The South African government knows this. Their threat that "if you try to mess with us, we'll just tighten the screws on the Blacks", will succeed if our response is anything less than comprehensive economic sanctions. Anything short of that will reinforce their renegade behavior in the international community. The South Africans are taking a gamble that the U.S. and England will protect them. They got the shock of their lives when President Reagan's veto was overridden in 1986. We must shock them again, by separating them from their protection.

Mr. Chairman, in closing I would like to say that I am aware of several other bills and suggested strengthening amendments before the Committee. I support any effort to strengthen the bill.

Finally, I would like to quote Dr. Martin Luther King, Jr.:

"South Africa's national policy and practice are the

incarnation of the doctrine of white supremacy in the midst of a population that is overwhelmingly black. But the tragedy of South Africa is not simply in its own policy; it is in the fact that the racist government of South Africa is virtually made possible by the economic policies of the United States and Great Britain, two countries which profess to be the moral bastions of the world."

Even if the effects of sanctions cannot be entirely predicted, sanctions are necessary to remove U.S. financing of the evil of apartheid and to make our position absolutely clear to the world.

We must act before it is too late. The situation in South Africa will not improve without outside pressures. If there is not real and dramatic change in the conditions of the Black people, there is little hope for peaceful change.

The double standard toward South Africa and the other regimes we oppose is obvious. Our policy toward South Africa brands us before the world, particularly the Third World. As the crisis heightens in South Africa, we will become the focal point of discontent. That is not necessary.

We must disengage and end our support and acquiescence of apartheid.

Issue Brief

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SOUTH AFRICA: INTERNATIONAL SANCTIONS

Updated September 22, 1987



by

Raymond W. Copson

Foreign Affairs and National Defense Division

Jeanne S. Affelder

Foreign Affairs and National Defense Division

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CONTENTS**SUMMARY****ISSUE DEFINITION****BACKGROUND AND ANALYSIS****U.S. Sanctions****International Cooperation on Sanctions****Sanctions Imposed by Others****Major Trading Partners**

- (1) European Community
- (2) Japan
- (3) West Germany
- (4) Britain
- (5) Italy

Other Countries

- (1) Frontline States
- (2) Canada
- (3) Israel
- (4) Oil-Producing States
- (5) Other Asian States
- (6) U.S.S.R.

International Organizations

- (1) United Nations
- (2) Commonwealth

FOR ADDITIONAL READING

IB86157

09-22-87

SOUTH AFRICA: INTERNATIONAL SANCTIONS

SUMMARY

The Comprehensive Anti-Apartheid Act of 1986 (P.L. 99-440) makes it U.S. policy to seek agreements with the industrialized democracies and South Africa's other trading partners on cooperation in imposing sanctions against South Africa. This issue brief describes the sanctions imposed by other countries, several multilateral organizations and, for purposes of comparison, the United States. It also outlines U.S. policy on coordination of international sanctions.

U.S. sanctions are more comprehensive than those imposed by most other Western industrial nations. The European Community countries, however, have enacted a number of prohibitions and restrictions, including a ban on new investment by European companies, a prohibition of oil exports and nuclear cooperation, and a ban on imports of iron and steel. Japan has also imposed several sanctions, and the Japanese government has said that it will follow the lead of the United States and Western Europe in making sanctions policy. Many other countries have either enacted unilateral sanctions or are enforcing sanctions imposed by international organizations.

In short, prospects for U.S. cooperation with other countries on sanctions might appear favorable. Efforts at cooperation could be strained, however, by the reluctance of some countries to impose particular sanctions. West Germany, for example, has vetoed a European Community ban on coal imports -- a sanction imposed by the United States. Moreover, the effectiveness of international cooperation could be reduced by the willingness of some to cooperate in South African efforts to circumvent sanctions.

In any event, the State Department has said that it regards the language in the Anti-Apartheid Act on international sanctions coordination as "hortatory and not mandatory." It has raised objections to mandatory U.N. sanctions and vetoed a UN Security Council sanctions resolution modeled on the provisions of the U.S. sanctions law.

ISSUE DEFINITION

The Comprehensive Anti-Apartheid Act of 1986 (P.L. 99-440, Title 4) states that the executive branch should negotiate promptly with the industrialized democracies and South Africa's other trading partners to reach cooperative agreements on imposing sanctions against South Africa. These negotiations were to conclude by Mar. 31, 1987, according to the legislation. Cooperation on sanctions has been seen both as a way of enhancing their effectiveness and of helping to assure that other countries do not take advantage of U.S. sanctions to gain new markets. Many nations have already imposed sanctions of one sort or another, either bilaterally or in accordance with the decisions of international organizations. Coordination could be hindered, however, by the reluctance of some nations to agree to sanctions that might damage key economic interests. In any event, the Administration remains opposed to mandatory international sanctions and has refused to vote in favor of comprehensive sanctions at the United Nations or to convene an international sanctions conference.

Summary Table: Sanctions Against South Africa
Selected Prohibitions/Major Actors

Exports							Imports			Other	
	Arms	New Inv	Loan Rest	Nuc. Tec	Computers	Oil	Kgr-rands	Iron /Stl	Coal	Ag Prod	Air Tour-Lnk ism
U.S.	x	x	x	x	x	x	x	x	x	x	x
Japan	x	x	x		x	x	x	x			x
France	x	x	x		x	x	x	x			
Germany	x	x	x		x	x	x	x			
Britain	x	x	x		x	x	x	x			
Italy	x	x	x		x	x	x	x			
Canada	x	x	x		x	x	x	x		x	
Israel	x										
U.S.	x	x	x	x	x	x	x	x	x	x	x
Commonwealth	x	x	x	x	x	x			x	x	x

- voluntary
- recommended

Headings: Arms; New Investment; Loan Restrictions; Nuclear Materials and Technology; Computers to Apartheid-Enforcing Agencies; Oil and Petroleum Products; Krugerrands; Iron and Steel; Coal; Agricultural Products; Air Links; Tourism Restrictions.

BACKGROUND AND ANALYSISU.S. Sanctions

On Oct. 2, 1986, the Senate voted to override the President's veto of H.R. 4868, the Comprehensive Anti-Apartheid Act of 1986, and the bill became law (P.L. 99-440) (see CRS Issue Brief 85188, South Africa and U.S. Sanctions: Legislative Activity of the 99th Congress). The House had voted to override on Sept. 29. The sanctions imposed by this law are among the strictest imposed by any Western industrialized nation, with the possible exception of Canada and Sweden, which have only limited economic ties with South Africa. The sanctions law prohibits the following:

- the importation of the South African Krugerrand or other gold coins (1984 imports: \$486 million; 1985, before an earlier ban was imposed by executive order: \$101 million);

- the import of arms, ammunition, and military articles;

- the import of the products of South African "parastatals" (companies owned, controlled, or subsidized by the South African government);

- computer sales to the military, police, or other apartheid-enforcing agencies;

- loans to the South African government (1985: \$148 million in loans were outstanding).

- air transportation links between the United States and South Africa (1985: 95,000 passengers carried between the two countries);

- the export to South Africa of any nuclear material or technology;

- South African government bank accounts in the United States, except for diplomatic purposes (March 1986, South African government and agencies had \$329 million in U.S. banks);

- the importation of South African uranium (1985: \$140 million in imports) and coal (1985: \$43.4 million);

- new investment by Americans in South Africa (new investment had probably been near zero; existing direct investment, 1985: \$1.3 billion).

- U.S. Government procurement from South Africa except for diplomatic purposes;

- the promotion of tourism in South Africa by U.S. agencies;

- any subsidies for trade with South Africa;

- the sale to South Africa of any items on the U.S. Munitions List;

-- the importation of South African textiles (1985: \$55.1 million), agricultural products (1985: \$52 million in fruits and vegetables, \$129.4 million in other products), and sugar;

-- imports of iron and steel (1985: \$293.6 million);

-- crude oil and petroleum exports (no exports);

-- any military cooperation.

In addition, the sanctions legislation includes a number of "positive measures," such as funding for educational scholarships for blacks and legal aid for detainees, as well as a commitment to promoting economic development and human rights throughout southern Africa. Some of the actions, including the Krugerrand prohibition and the ban on loans to a South African government, had earlier been imposed by President Reagan's 1985 executive orders that temporarily delayed sanctions legislation.

The United States, which had been South Africa's leading trade partner, fell to second place, slightly behind Japan, in 1986. U.S. exports amounted to \$1.2 billion, while imports were \$2.0 billion.

International Cooperation on Sanctions

The Comprehensive Anti-Apartheid Act under Section 401 makes it U.S. policy to seek international cooperative agreements with other industrialized democracies on measures to bring about the complete dismantling of apartheid. In addition, according to the Act, the President or Secretary of State "should" convene a conference of the industrialized democracies and other South African trading partners on sanctions. Negotiations "should" conclude within 180 days of enactment, which would be Mar. 31, 1987. If international agreements are concluded, the President is empowered to modify the sanctions imposed under the legislation accordingly, but only with the consent of Congress expressed in a joint resolution of approval.

Many countries have already imposed sanctions in one form or another against South Africa. In particular, there are significant similarities between U.S. sanctions and the sanctions imposed by the European Community and Japan. Thus, some prospect of international sanctions cooperation would appear to exist. However, some countries have resisted some of the actions now enacted into U.S. law. West Germany, for example, recently vetoed a European Community boycott of South African coal, and several European and other countries would be reluctant to give up lucrative air links with South Africa. Moreover, virtually every major industrial country, as well as Israel, has been accused of violating existing United Nations and other sanctions against South Africa. While they have denied these charges, critics continue to suggest that substantial violations have occurred. Thus, even if international agreements on sanctions can be negotiated, enforcement will remain an issue.

In any event, the State Department issued a report on Apr. 8, 1987, indicating that the United States did not intend to convene an international conference on sanctions or ask other countries to model any sanctions they might adopt on those of the United States. The report, which was required by Sec. 401(b)(2)(a) of the Act, stated that the Act's provision on convening an international conference was "hortatory rather than mandatory." The report opposed U.S. support for mandatory international sanctions imposed through the United Nations on the grounds that a Security Council resolution would deprive the United States of flexibility should the situation in South Africa change. Moreover, the report argued, sanctions by other nations are within their "sovereign responsibility" and decisions on imposing them should be taken independently.

On Feb. 20, 1987, the United States vetoed a UN Security Council resolution that would have imposed sanctions modeled on the provisions of the Comprehensive Anti-Apartheid Act. In defending this vote, Secretary of State Shultz told the Senate Foreign Relations Committee that "We have a lot of trouble as a matter of principle with mandatory sanctions as voted by the UN. Senator Lugar, a principal sponsor of the Act, responded that "our policy was one that could only be successful if our major allies and other countries share in that idea of limited economic sanctions" (New York Times, Feb. 25, 1987).

Sanctions Imposed by Others

This section reviews the sanctions other nations and major international organizations have already imposed and indicates areas of divergence from U.S. sanctions. (For detailed information on sanctions imposed by 30 countries, see U.S. Department of State, Report to the Congress on Industrialized Democracies' Relations With and Measures Against South Africa, In Implementation of Sections 401(2)(b) and 506(a) of the Comprehensive Anti-Apartheid Act of 1986. Washington, May 12, 1987.)

Major Trading Partners

(1) **European Community (EC).** The EC nations (Belgium, Britain, Denmark, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, West Germany, and, as of January 1986, Spain and Portugal), taken together, are far and away South Africa's largest trading partners. Their actions are critical to the South African economy. In 1985, EC countries received 23% of South Africa's total world exports and provided 42% of South Africa's imports in 1984. Total trade with South Africa was roughly \$10 billion, with exports to South Africa primarily in industrial machinery and electrical equipment, and imports primarily in coal, iron, metals, and agricultural products. According to The Economist (Sept. 20, 1986), two-thirds of all South African coal exports go to the EC, valued at \$1 billion in 1985. The 12 EC countries also account for approximately half of all foreign investments in South Africa. Eight of the 12 EC countries have embassies in Pretoria (Denmark, Greece, Ireland, and Luxembourg have no diplomatic relations with South Africa).

Before 1985, the EC had taken limited action against apartheid. The Code of Conduct, a voluntary code calling for employers in South Africa to apply fair labor practices and to permit trade union activity, was adopted in 1977. Sporting links had been discouraged since 1977. Between 1980 and 1984, the EC spent roughly \$11 million in aid to nonviolent anti-apartheid movements and to South African refugees in neighboring countries. In that same period, aid to the neighboring nations who are members of the Southern African Development Coordination Conference (SADCC) reached approximately \$800 million.

On Sept. 10, 1985, the 10 nations of the EC plus Spain and Portugal announced they would "harmonize their attitudes" on a series of measures designed to bring about change in South Africa. The "positive measures" included: continued adherence to the EC Code of Conduct; increased assistance for nonwhite education and nonviolent anti-apartheid organizations; intensified contacts with nonwhites in political, trade union, business, cultural, scientific, and sporting sectors; and continued programs to assist SADCC and the frontline states.

"Restrictive measures" included:

- a ban on imports and exports of arms;
- an end to all military cooperation, including recalling military attaches to South Africa and refusing accreditation to military attaches from South Africa;
- a ban on oil exports (1984: \$42.3 million; 1985: \$2.7 million);
- a ban on exports of computers to the police and armed forces;
- a ban on nuclear cooperation;
- continued observation of the 1977 "Gleneagles Agreement" discouraging sporting links.

Additional sanctions were approved in September 1986:

- a voluntary ban on new investment by European companies, not including overseas subsidiaries of those companies;
- a ban on imports of iron and steel (1985: \$322 million to 12 EC nations);
- a ban on imports of Krugerrands (1985: \$107 million to 12 EC nations).

EC decisions are generally binding, but implementation of the 1986 investment ban is being left up to the member states. A proposed ban on coal imports, tentatively approved at a June 1986 meeting, was dropped in August after strong opposition from Germany, supported by Portugal. They argued the ban on coal would cause significant unemployment among black miners, while supporters of the coal ban felt its omission served only to dilute the credibility of the sanctions package.

Some EC nations have adopted additional unilateral measures. Denmark has terminated air agreements with South Africa, and its legislature recently voted for an almost total trade ban with South Africa. Ireland has ordered phasing out imports of all South African fruits and vegetables.

(2) Japan. Japan became South Africa's largest single trading partner in 1986, ranking just ahead of the United States and West Germany. In that year, Japanese exports to South Africa were \$1.4 billion, primarily in electronics, automobiles, and spare parts. Imports from South Africa were \$1.8 billion in coal, metallic minerals, platinum, and maize. According to some reports, Japan's nuclear power industry has relied heavily on South African uranium.

For 30 years, Japanese policy has prohibited direct investments in South Africa; nevertheless, Japanese products are produced in South Africa through licensing arrangements with South African companies. Japan has restrictions on bank loans but some banks reportedly channel loans to South Africa through overseas affiliates; according to some analysts, these loans finance only Japanese trade with South Africa. Japan prohibits the export of arms to all nations and follows international guidelines respecting nuclear exports. Japan has no official diplomatic relations with South Africa, but maintains close consular relations.

Some reports characterize Japanese business, particularly the computer industry, as ready to capitalize on the vacuum left in the South African economy if and when Westerners withdraw. But Japanese leaders have said repeatedly they would follow the lead of the United States and Western Europe in making South African policy. The Japanese government has requested importers not to undermine U.S. and EC sanctions, including the U.S. ban on coal imports from South Africa.

One month after President Reagan announced his executive order in 1985, the Japanese Foreign Minister announced:

- a continuation of a ban on new investment;
- a strengthening of prohibitions on the export of computers to apartheid-enforcing agencies (data unavailable);
- a voluntary ban on imports of Krugerrands (1984: \$51 million);
- a restriction on bank loans to South African residents (data unavailable);
- a restriction on cultural, sporting, and educational exchanges.

In September 1986, three days after the EC agreed to its sanctions package, the Japanese announced:

- a ban on imports of iron and steel;

-- restrictions on tourism (recently, 100-200 South Africans per month have visited Japan);

-- a "confirmation" of suspension of air links with South Africa (occasional charter flights have operated for the past several years).

Japanese positive measures have included calls on companies doing business in South Africa to follow equal employment practices and to increase Japanese cooperation in the area of human resource development.

(3) West Germany. According to the International Monetary Fund (IMF), West Germany ranks as one of South Africa's top three trading partners and recently has become the world's largest exporter to South Africa. In 1986, exports totaled \$1.9 billion, primarily in machinery and high-technology items, while imports from South Africa were \$1.1 million, led by imports of chromium. In 1985, total West German investment in South Africa was estimated to be \$2.7 billion.

During the EC's debates, West German Chancellor Helmut Kohl was reluctant to impose sanctions but did agree to the EC package -- including the ban on coal imports -- that was tentatively approved in June 1986. At the September 1986 meeting of the EC, however, Germany blocked the ban on coal imports, arguing it would hurt blacks more than the white South African government by putting black miners out of work. Some analysts maintain German rejection of the full sanctions package had more to do with Kohl's need to satisfy elements in his ruling coalition who strongly opposed sanctions.

(4) Britain. Britain is South Africa's largest foreign investor with roughly \$18 billion invested there. In 1986, Britain ranked as South Africa's fourth largest trading partner. British imports were roughly \$1 billion, largely in raw materials such as chrome, manganese, and platinum. Exports were \$1.3 billion, mostly in the machinery and transportation industries. It has been estimated that British banks hold \$5.5 billion of South Africa's overall foreign debt. According to Prime Minister Margaret Thatcher, 800,000 South Africans are entitled to British passports.

Thatcher has been quite vocal in her rejection of "punitive sanctions" against South Africa, arguing they would hinder the reform process. She has faced criticism from opposition forces in Parliament (and, according to some reports, the Queen) for her South African policy and has been accused of using various delaying tactics to avoid imposing sanctions.

Despite objections to sanctions, Britain joined the other members of the EC in imposing the measures agreed to in 1985 and again in 1986. In July 1986, in dissenting from more sweeping Commonwealth sanctions, Britain announced voluntary bans on new investment (1983: \$418 million) and tourism promotion (1985: 100,000 South African tourists visited Britain).

According to an April 1987 State Department report issued in compliance with the Comprehensive Anti-Apartheid Act, British companies on occasion have exported items prohibited by the 1977 mandatory UN arms

embargo to South Africa. (Report To Congress Pursuant to Section 508 of the Comprehensive Anti-Apartheid Act of 1986: Compliance with the U.N. Arms Embargo. Apr. 2, 1986.) These shipments were made without government permission, the report added.

(5) Italy. In 1986, Italy exported \$355 million to South Africa, primarily in industrial machinery. Imports from South Africa reached \$1.3 million, primarily in raw materials, making Italy one of the largest recipients of South African products.

Italy has agreed to impose all measures agreed to by the EC, including positive measures such as aid to victims of apartheid and to the frontline states. Italy has taken no unilateral action outside the EC framework. The April 1987 State Department report on compliance with the UN arms embargo stated that Italian companies are involved in the maintenance and upgrading of major weapons systems provided before the 1977 embargo was imposed.

(6) France. French trade with South Africa lags behind that of the other large industrialized democracies. In 1986, France exported \$412 million to South Africa, while imports were \$343 million. France, however, holds an estimated 5% to 10% of foreign investment in South Africa, amounting to between \$1.5 billion and \$1.8 billion.

Other than its commitment to abide by the U.N. arms embargo, France had no sanctions prior to the rise in unrest in South Africa in late 1984. France's decision to impose sanctions was the first action taken by a Western power after the South African government imposed a state of emergency in July 1985. The French government, then led a socialist prime minister, reversed a longstanding policy of opposition to sanctions by suspending all new investments (existing investments were unaffected), and recalling its Ambassador. France called for an urgent meeting of the U.N. Security Council and cosponsored a resolution with Denmark calling for the adoption of voluntary sanctions against South Africa (the resolution was approved July 26, 1985, with the United States and Britain abstaining). France joined the other EC countries in the September 1985 decision to restrict trade of oil and paramilitary materials, and to boycott cultural and athletic exchanges. In addition, France announced in November 1985 that it would not renew coal contracts with South Africa.

French policy makers continue to face considerable pressure for sanctions against South Africa from domestic anti-apartheid groups. However, conservative Prime Minister Jacques Chirac, elected in March 1986, has returned the French Ambassador to Pretoria. Although France continues to comply with all EC sanctions, it has ceased to be a leader on the issue. The State Department's April 1987 report on the UN arms embargo indicated that French companies have been involved in maintaining and upgrading South African weapons systems.

Other Countries

(1) Frontline States. Angola, Botswana, Mozambique, Tanzania, Zambia, and Zimbabwe make up the "frontline states" of Southern Africa, which have taken a strong stance against apartheid. According to the U.S.

State Department, 67% of Zambia's imports and 33% of its exports are transported through South Africa. Zimbabwe depends on South African transportation links for 95% of all overseas trade. South Africa is the primary source for food, electricity, oil, and minerals for several neighbors, and remittances from foreign workers provide significant portions of those nations' gross national products. Angola and distant Tanzania, however, have remained independent of the South African economy.

Some opponents of U.S. and other sanctions point to the possibility of South African economic retaliation against the frontline states as an argument against sanctions. Other opponents claim the frontline states should be the first to impose sanctions against South Africa, maintaining the leaders of those states are hypocritical to call on the international community for punitive measures against apartheid while benefitting from trade with South Africa. A contrasting view is that because several of the frontline states depend on South Africa's economy, they should not be expected to take the lead. Rather, it is argued, they must rely on other, less vulnerable, nations to do so. Many nations now contribute aid to the frontline states as a "positive measures" against apartheid.

Zambia and Zimbabwe have been outspoken in their advocacy of full implementation of the proposed Commonwealth sanctions against South Africa (see below). Observers question whether they can afford to implement these measures themselves, although they initially said that they intended to do so by the end of 1986. By early 1987, however, it was clear that they had postponed any immediate economic steps against South Africa. Botswana has maintained a low profile on the issue of sanctions, and some analysts question Botswana's ability to impose the Commonwealth measures. Tanzania is more independent of the South African economy than other frontline states.

(2) Canada. Canada is not one of South Africa's leading trading partners, but has taken a lead role on sanctions. Canada closed its Embassy in Pretoria for one day on June 16, 1986, in protest to South Africa's declaration of a state of emergency. Prime Minister Brian Mulroney has actively sought to convince Britain's Prime Minister Margaret Thatcher to adopt tough sanctions favored by the Commonwealth. Some analysts maintain that it is easier for Canada to adopt sanctions than other nations because trade with South Africa accounts for less than 2% of total Canadian world trade. These analysts also note that Canada could benefit from an international boycott of South African minerals; that some of Canada's bans are merely symbolic since they are imposed on items Canada does not import; and that Canadian trade with South Africa appears to have grown recently despite sanctions. Supporters of Canadian policy praise the leadership role Canada has taken in the sanctions issue.

Canada has begun to implement the Commonwealth measures agreed in its Mission in 1985 and in London in August 1986. These include bans on new investment, new loans, imports of gold, iron, steel, wool, wheat, and agricultural products, a ban on the promotion of tourism, and an end to all government contracts with South African companies. The issuance of tourist visas at the Canadian embassy in Pretoria has been halted. Canada subscribes to the I.L. arms embargo against South Africa and has imposed additional restrictive measures:

- a ban on government procurement of all South African products;
- an end of processing of Namibian uranium;
- an embargo on all Canada-South Africa cargo and passenger air transportation;
- an end to programs to develop and insure Canada-South Africa export markets;
- the cancellation of accreditation of five South African attaches in Canada.

(3) Israel. Israel appears not to be one of South Africa's major trading partners. In 1986, according to published data, Israel imported \$180 million from South Africa, mostly coal, while exports to South Africa were \$65 million. No data are available on Israeli investment in South Africa, although it is assumed to be small. Israeli businesses, however, have established economic relations with some of the so-called independent homelands, and Israelis reportedly have been developing agricultural and irrigation systems, providing doctors, and contracting for the construction of a hospital.

According to the London Financial Times (Aug. 19, 1986), the published statistics for Israeli-South African trade greatly understate the real trade relationship between the two nations because they exclude the sale of armaments. Israel has been accused of selling weapons directly and indirectly to the South African government, of setting up weapons licensing operations in South Africa, of training South African military and police, and even of cooperating with South Africa in nuclear weapons research. Israel has repeatedly and vigorously denied these charges and insists that it abides by the U.N. arms embargo.

According to the State Department's report on international compliance with the UN arms embargo, Israel "appears to have sold military systems and sub-systems and provided technical assistance on a regular basis." Further, the report stated, "we believe that the Israeli government was fully aware of most or all of this trade." On Mar. 18, 1987, Israel announced that it would not allow new arms contracts to be signed with South Africa and that old contracts would be allowed to expire.

Limited economic sanctions were reportedly approved by the Israeli cabinet in September 1987. Under these prohibitions, new investment and government loans will be prohibited while Krugerrand imports (reportedly negligible because of exchange controls) are to be banned. Iron and steel imports will be frozen at current levels, but reports indicate that coal imports will remain unaffected and that a proposed ban on exports of certain computers with military applications was rejected. According to the cabinet decision, Israel's government will take all steps necessary to assure that the country does not become a transit station for circumventing sanctions imposed by other countries.

(4) Oil-Producing States. As an organization, the Organization of Petroleum Exporting Countries (OPEC) considers itself "nonpolitical" and therefore unable to impose sanctions; however, the OPEC member states (Algeria, Gabon, Indonesia, Iran, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, U.A.E., and Venezuela) have all officially announced sanctions, including an oil boycott of South Africa in 1973. The Arab producers, even as OAPEC (Algeria, Bahrain, Egypt until 1979, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, Syria, Tunisia, and U.A.E.), reaffirmed the oil embargo in 1983. Analysts agree, however, that some Persian Gulf states are South Africa's principal oil suppliers. Some of this oil may reach South Africa through traders and without the direct knowledge of the producer.

Prior to the fall of the Shah in 1979, Iran openly supplied South Africa with an estimated 90% of its oil. Ayatollah Khomeini cut off that supply, but some reports suggest that Iran as well as Iraq may have allowed oil to be shipped to South Africa in exchange for the hard currency (or in Iraq's case, possibly ammunition) needed to pursue their war. The governments of Saudi Arabia and Oman have also been accused of allowing sales of their oil to South Africa.

(5) Other Asian States. Taiwan is the Asian nation most frequently cited for its close ties to South Africa, and its potential role as an evader of sanctions. It reportedly imports South African raw materials, including coal and uranium, and military links are suspected. Sporting links are maintained, and air links between Johannesburg and Taipei, begun in 1980 by South African Airways (SAA), continue.

South Korea is often cited as a potential substitute market for South African exports. But the South Korean Assistant Foreign Minister has described his nation's relations with South Africa as: "No official contact with South Africa and condemnation of the apartheid system."

Hong Kong is also sometimes mentioned as an important alternative market and conduit for South Africa in the face of sanctions. In August 1986, Hong Kong announced a ban on imports of gold coins from South Africa (although South African gold coins may be imported via other countries). Hong Kong has been an important purchaser of South African coal and steel until late in 1986 it decided to ban South African iron and steel imports. Hong Kong also discourages investment in South Africa and tourism (Asiatic 11 Street Journal, Nov. 10, 1986). Singapore has "discouraged" direct trade with South Africa since 1965, and banned imports, although reports suggest that some trade has been走私 (smuggled).

(6) U.S.S.R. According to the IMF, South African trade with the U.S.S.R. and other non-IMF members was \$40 million in 1986. Many analysts maintain, however, that a significant, unreported trade relationship has been built between South Africa and the Soviet Union in diamonds, gold, and platinum.

Soviet spokesmen that any easy trade is conducted between the U.S.S.R. and South Africa and have criticized U.S./South African economic ties. The Soviets have called for the universal application of sanctions against South Africa supported by U.S. initiatives in support of sanctions.

and attacked other states, particularly the United States and Britain, for opposing many U.N. sanctions resolutions.

(7) Scandinavian countries. Sweden announced in March 1987 that it would impose a ban on all trade with South Africa with effect from July 1. According to the Swedish foreign minister, the ban is a reaction to the failure of the UN Security Council to impose mandatory international sanctions (New York Times, Mar. 13, 1987). Sweden had banned new investments in South Africa in 1979 and barred agricultural imports, sports exchanges, air traffic, and loans to the South African government in 1985. Under the 1987 sanctions, Swedish companies active in South Africa would not be permitted to supply their subsidiaries after October 1, although reports indicate that they would be able to import from company subsidiaries outside Sweden. Fewer than a dozen Swedish companies that supply the South African mining industry are likely to be significantly affected by the new restriction.

Denmark and Norway have also banned trade with South Africa, and Norwegian companies have until September 1987 to cut their South African links. However, the Norwegian government, reportedly concerned over the loss of imports of high-grade metal ores from South Africa, will review the effect of its sanctions on Norwegian industry after two years (Weekly Mail, Johannesburg, Mar. 26, 1987).

International Organizations

(1) United Nations. Compliance with U.N. General Assembly resolutions is voluntary; U.N. Security Council resolutions can be mandatory in theory, although in practice the U.N. has shown little ability to punish violators.

Both the General Assembly and the Security Council of the United Nations have dealt with the issues of apartheid and South Africa. Major decisions have included:

- a request for nations to break diplomatic relations and prohibit all trade with South Africa (General Assembly, 1962);

- a voluntary arms embargo (Security Council, 1963);

- a vote for South Africa's major trading partners to end their increasing economic, military, and nuclear "collaboration" with South Africa (G.A., 1968);

- a recommendation that members refuse participation in all sporting events with South Africa at the 1972 Olympic games (G.A., 1971);

- a decision that South Africa no longer be permitted to participate in the work of the General Assembly (although South Africa is still a member of the U.N.) (G.A., 1974);

- a mandatory arms embargo (S.C., 1977);

- a ban on the importation of South African arms (S.C., 1977);

-- votes calling for an oil embargo, as well as loan and investment bans (G.A., 1979);

-- a resolution asking all member states to adopt a variety of actions against South Africa (S.C., 1985).

(2) Commonwealth. Economic ties between the 49 independent nations of the Commonwealth and South Africa are not particularly strong except in the case of Britain and the frontline states that are Commonwealth members.

Prior to 1985, the Commonwealth countries had no association-wide actions against South Africa. At the biennial conference in Nassau in October 1985, the Commonwealth voted to continue affirmation of the U.N. arms embargo and to discourage sporting contacts with South Africa. They announced a series of additional limited measures: a ban on government loans to the South African government and its agencies; a readiness to stop imports of Krugerrands; a ban on oil exports; a ban on exports of computer equipment to apartheid-enforcing entities; a ban on new contracts for exports of nuclear materials; a ban on all military cooperation and technology; a ban on government funding for trade missions to South Africa; and discouragement of all cultural and scientific events except those contributing to the end of apartheid. A seven-member Eminent Persons Group (EPG) was appointed to promote political dialogue in South Africa and to assess the level of progress toward popular government.

The conclusions of the EPG were presented in August 1986 to leaders of seven Commonwealth nations (Australia, Bahamas, Britain, Canada, India, Zambia, and Zimbabwe) meeting in London. Citing "the absence of effective economic pressure on South Africa and the belief of the South African authorities that it need not be feared," six leaders, without Britain, agreed to a continuation of the sanctions imposed in 1985, and to the following:

-- a ban on new investment or reinvestment of profits earned in South Africa (1986: no new investment except by Britain; 1983: \$418 in British direct investment);

-- a ban on new bank loans (1985: outstanding South African debt of \$1.1 billion to Britain, figures unavailable for rest of Commonwealth, but no new loans approved in 1986);

-- a ban on imports of uranium (data unavailable), coal (1983: \$49 million), iron and steel (1983: \$115 million), and agricultural products (1983: \$1.1 billion);

-- a ban on government assistance to trade with and invest in South Africa (1985: \$2.6 billion in export credits guaranteed by Britain; total Commonwealth data unavailable);

-- a ban on government contracts with majority-owned South African companies;

-- a ban on air links with South Africa;

-- a ban on the promotion of tourism (1984: 366,000 tourists from Commonwealth countries visited South Africa, equaling 46% of all tourists);

-- a ban on giving visas to South Africans at Commonwealth consulates in South Africa.

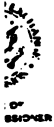
These measures are nonbinding on the Commonwealth as a whole and can be acted upon at the members' discretion. The Commonwealth Secretariat is expected to set a date for the imposition of sanctions.

British Prime Minister Margaret Thatcher opposed the 1986 Commonwealth measures, to the extent that some observers were predicting the breakup of the organization over the sanctions issue.

FOR ADDITIONAL READING

U.S. Library of Congress. Congressional Research Service. South Africa and U.S. sanctions: legislative activity of the 99th Congress [by] Brenda Branan. [Washington] Feb. 11, 1987.
CRS Issue Brief 85188

----- South African-U.S. economic ties: emerging issues [by] William H. Cooper. [Washington] Dec. 23, 1986. 14 p.
CRS Issue Brief 85117



SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20540

August 22, 1985

Mr. Honorable Jake Garn
Chairman
Committee on Banking,
Housing and Urban Affairs
United States Senate
Washington, D. C. 20510

Dear Chairman Garn:

In Chairman Shad's absence, I am responding to your letter dated July 18, 1985, in which you requested an analysis of Section of H.R. 1460 the "Anti-Apartheid Act of 1985" and how it may affect the sales of South African securities in the U.S. market, particularly the over-the-counter market. Enclosed is a report prepared by the Division of Market Regulation that I hope responsive to your questions.

Thank you for the opportunity to comment on this bill. If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

Charles C. Cox
Commissioner

Enclosure

SECURITIES AND EXCHANGE COMMISSION
DIVISION OF MARKET REGULATION

STAFF REPORT

This report analyzes Section 4 of H.R. 1460, the "Anti-Apartheid Act of 1985," as it passed the House of Representatives ("House") on June 5, 1985, and how that section may affect U.S. investors and the U.S. market in South African securities. Specifically, this report examines the U.S. markets in South African securities highlights differences in reporting requirements depending on whether the security is traded on a U.S. exchange or in the U.S. over-the-counter ("OTC") market and discusses ambiguities in the terms of the bill and the potential effect of the bill on OTC trading in South African securities. 1/

I. Introduction

A. The U.S. Markets for South African Securities 2/

South African securities are generally traded in the U.S. in the form of American depositary receipts ("ADRs"). 3/ The vast majority of these securities are traded OTC. In this regard, the New York Stock Exchange Inc. ("NYSE") currently trades only one South African security, ASA Ltd., a closed-end investment company in gold mining concerns, that has been listed on the NYSE since 1958. In 1984, 15,335,500 shares were traded on the exchange. The American Stock Exchange, Inc. ("Amex") also trades one South African security, O'okiep Copper Co., Ltd., that has been listed on the Amex since 1946. This security has 1,300 U.S. ADR holders, 1.2 million ADRs outstanding, and averages 2,000 ADRs traded daily. 4/

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- 1/ It is our understanding that the bill, as reported out of the Conference Committee, no longer contains provisions similar to Section 4 of H.R. 1460 as initially passed by the House. Nevertheless, because Section 4 raises important issues that may resurface in the future, we have completed an analysis of the section.
 - 2/ Most of the South African securities that are traded in the U.S. are also traded on the Johannesburg Stock Exchange.
 - 3/ An ADR is a substitute trading certificate for a foreign security issued by a bank which holds the underlying security. Virtually all ADRs in this country are issued by Citibank Irving Trust, or Morgan Guaranty Trust. ADRs were developed to ease problems of U.S. investors in transferring shares, collecting dividends in dollars, and obtaining information from foreign issuers.
 - 4/ In addition, options on ASA Ltd. are traded on the Amex.

At the end of June, 300 foreign securities were traded on the National Association of Securities Dealers, Inc. ("NASD") automated quotation system, known as NASDAQ. 5/ Eighty two of these foreign securities were traded in ADR form; 19 of those were South African ADRs. No South African security was traded in share form. From January 1 through July 30, 1985, over 84.8 million South African ADRs were traded on NASDAQ, which represented .7% of NASDAQ volume and 13.3% of total foreign securities' share and ADR volume for the same period. Eleven South African ADRs were in the top 50 NASDAQ foreign securities share/ADR volume leaders for the period January through June 1985. 6/ Furthermore, 15 South African ADRs were in the top 50 NASDAQ foreign securities dollar volume leaders for that period. Each South African ADR traded on NASDAQ has an average of 12 NASDAQ market makers.

In addition to the 19 South African ADRs on NASDAQ, 56 South African ADRs are traded solely in the pink sheets. 7/ These 75 South African ADRs traded in the OTC market represent 246.5 million ADRs outstanding. A representative of Irving Trust estimates that U.S. investors could hold up to 20 to 40% of the outstanding shares of any individual South African company. He also estimates that 200,000 U.S. investors 8/ hold South African ADRs (U.S. institutions 9/ hold 20% and U.S.

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- 5/ The number of foreign securities and ADRs traded on NASDAQ fluctuates over time. In 1981, 258 ADRs were listed on NASDAQ (including 92 new ADR listings for that year).
 - 6/ Only one South African ADR, however, appeared in the top 50 NASDAQ most actively-traded issues -- De Beers Consolidated Mines, which ranked 35th.
 - 7/ The pink sheets are a daily publication of market makers' non-firm quotations or indications of interest in securities traded OTC. The sheets are published by the National Quotation Bureau.
 - 8/ This large holding, if accurate, may be because many U.S. investors may view South African mining stocks as a substitute for purchasing the commodity.
 - 9/ Institutions may purchase shares as opposed to ADRs in South African securities on foreign exchanges to avoid custodial ADR charges. We do not know the extent of these purchases.

individuals hold the remaining 80%). He estimates that \$3 billion of OTC-traded South African ADRs are held by U.S. investors.

B. Reporting Requirements for Foreign Securities

Prior to October 6, 1983, Rule 12g3-2 under the Securities Exchange Act of 1934 ("Act") exempted all foreign securities traded over NASDAQ from Section 12(g) registration provided that the Commission received all information made public by the issuer in its domicile. On October 6, 1983, the Commission amended Rule 12g3-2 to require all foreign issuers seeking inclusion in NASDAQ to be registered pursuant to Section 12(g) under the Act. ^{10/} The amendments generally subject foreign securities traded on NASDAQ to the same reporting requirements as domestic securities and foreign securities listed on U.S. exchanges. ^{11/} Pursuant to a grandfather provision, however, non-Canadian NASDAQ foreign securities ^{12/} that were exempt from Section 12(g) registration on October 5, 1983 could continue to be exempt

^{10/} See Securities Act Release No. 6493; Securities Exchange Act Release No. 20264 (October 6, 1983), 48 FR 46736 ("Rule 12g3-2 Release").

^{11/} All stocks listed on an exchange, whether domestic or foreign, are required to be registered under Section 12(b), and as a matter of practice exchanges require that the foreign security underlying an ADR be registered before the ADR is listed on an exchange.

^{12/} Canadian securities, which were exempt on October 5, 1983, could continue to rely on the exemption until January 6, 1986. Canadian securities were treated differently because of the particularly close nexus between the U.S. and Canadian securities markets. Foreign securities traded solely in the pink sheets can still apply for the exemption.

- 4 -

so long as their issuer continued to supply the Commission public information about the company. 13/ Most ADRs of South African securities traded on NASDAQ are traded pursuant to this grandfather provision. 14/

II. Effect of Section 4 of the Bill on the OTC Market

Section 4 appears to prohibit the purchase by U.S. persons of securities of South African companies, 15/ with a number of exceptions, including permitting such securities to be freely purchased on a "national securities exchange"

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- 13/ To maintain the exemption, South African companies file annual and semi-annual financial reports, dividend declarations, press releases, and quarterly reports filed with the Johannesburg Stock Exchange.
- 14/ The bill could create incentives for South African companies to list new issues on an exchange rather than on NASDAQ. To do so, however, would require them to register under Section 12(b). We question whether many South African issuers would be willing to register under Section 12(b) to seek an exchange listing as we understand that a number of South African issuers had previously indicated that, had they not been exempted from 12(g) registration by the grandfather provision, they would have permitted their securities to be removed from NASDAQ and traded solely in the pink sheets.
- 15/ Section 4 literally can be interpreted to restrict OTC trading even in the securities of U.S. companies that do business in South Africa. While it is our understanding that this was not the intent of the bill, the terms of the bill and the House Report do not clearly distinguish between South African companies and U.S. companies that have subsidiaries in, or otherwise do business with, South Africa. Accordingly, we would suggest clarifying language on this matter.

as defined by Section 6 of the Act. 16/ Specifically, Section 4 appears to apply to both primary offerings and secondary trading 17/ in the OTC market by U.S. persons in South African securities.

Thus, the bill could effectively eliminate the U.S. OTC market for South African securities. U.S. holders of South African securities would be permitted to sell those securities only to foreigners. 18/ In addition, because NASDAQ market makers, as U.S. persons, would apparently also be subject to the purchase prohibitions, they probably would be forced to discontinue displaying quotations in NASDAQ. In this regard, the NASDAQ market is a dealer market; NASDAQ market makers

16/ See Section 4(b)(3). This language apparently was intended not to extend to organized markets off of exchanges. Indeed, the legislative history of the bill explicitly states that the securities exchange trading exemption contained in Section 4(b) includes "U.S. services that have a marketplace or facilities such as the New York Stock Exchange, but not foreign securities exchanges, automated services like the National Association of Securities Dealers Automated Quotation (NASDAQ), and new securities offerings by private U.S. dealers." House Comm. on Foreign Affs., Report to Accompany H.R. 1460 (Part 1): Anti-Apartheid Act of 1985, 99th Cong., 1st Sess. 9, 10 (1985).

17/ Primary offerings refer to newly issued securities received by the investor from the issuer or its underwriting group. Secondary trading refers to post primary offering trading, where investors sell their securities to other investors.

18/ While the bill does not specify how the investment prohibitions are to be administered or enforced, market makers also may be subject to some administrative costs if they are required to check that purchasers are non-U.S. persons. Because market makers often deal with banks or other brokers or dealers who represent customers, it may be difficult for market makers to ascertain the citizenship of the actual purchasers.

- 6 -

display quotations indicating their offers to purchase and sell. By being prohibited from purchasing securities, NASDAQ market makers could not establish a position nor sell South African securities short (they could not purchase securities to cover a short position). Hence, they could not function as market makers. Business would have to be conducted on an agency-cross basis where the firm must find a non-U.S. person to purchase the South African ADRs from its U.S. customer. This would be extremely inefficient for executing small retail size orders and almost definitely would lead to the security dropping off of NASDAQ. The Commission in the Rule 12g3-2 Release cited what commentators believed would be the consequences if a foreign security lost its NASDAQ market and was traded in the pink sheets: "increased price spreads, decrease in information, price quotes not carried in newspapers, less liquid market and fewer institutions in the market, absence of NASD surveillance, and delays in execution of transfers. These factors could cause a price drop of twenty percent according to one estimate." ^{19/} In the present case, because no U.S. person could purchase the security, the viability of even a pink sheet market would be in doubt, leaving only a foreign marketplace in which to trade the security. Thus, by severely restricting trading of South African securities on NASDAQ and in the U.S. OTC market, most U.S. holders of South African securities (those securities traded OTC) could be deprived of a liquid market and the value of their investment could be reduced severely as a result.

Distinguishing between trading South African securities on an exchange and on NASDAQ also raises an issue involving equal treatment of similarly-situated markets. While the OTC market has traditionally offered a marketplace for smaller, more speculative securities, the NASDAQ System currently includes a substantial number of actively traded, well capitalized and widely held securities. For this reason, the Commission is attempting to eliminate artificial distinctions between exchange and OTC markets. We believe that the elimination of these distinctions is particularly important to the developing national market system ("NMS") for securities. In this regard, Congress mandated the implementation of the NMS and cited as one of its goals "fair competition . . . among markets and between exchange markets and over-the-counter

^{19/} Rule 12g3-2 Release, supra note 10, 48 FR 46757.

- 7 -

markets." 20/ In elucidation of this goal, Congress stated that

[t]he objective would be to enhance competition and to allow economic forces interacting within a fair regulatory field, to arrive at appropriate variations in practices and services. It would obviously be contrary to this purpose to compel elimination of differences between these types of markets or types of firms that might be competition enhancing. 21/

We believe that Congress did not intend unnecessary regulatory distinctions to be made between exchange and OTC market trading in the NMS. We also believe that Congress did not intend to reduce the secondary market liquidity, and, therefore the value, of securities currently held by thousands of U.S. public investors. Accordingly, we believe that, unless justified for reasons not apparent in the law or report, Section 4 should not be applied to publicly traded securities.

20/ Section 11A(a)(1)(C)(ii) of the Act.

21/ Senate Comm. on Banking, Housing & Urb. Affs., Report to Accompany S.249: Securities Acts Amendments of 1975, S. Rep. No. 75, 94th Cong., 1st Sess. 8 (1975).

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U.S. HOUSE OF REPRESENTATIVES

ONE HUNDREDEIGHTH CONGRESS

SUBCOMMITTEE ON INTERNATIONAL FINANCE,
TRADE AND MONETARY POLICY

OF THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ROOM 804 HOUSE OFFICE BUILDING ANNEX No. 1

WASHINGTON, DC 20515

FOR THE HEARING ON THE ANTI-APARTHEID ACT AMENDMENTS OF 1988

10 a.m. Room 2128 Rayburn Thursday, June 2, 1988

Representative Robert Garcia

Mr. Chairman, I am glad that the Banking, Finance, and Urban Affairs Committee has the opportunity to contribute to and expand the U.S. role in the fight against apartheid. For forty years apartheid has been the rule in South Africa. We can now change that.

So far sanctions have made the apartheid business less comfortable. With a little more time and by tightening up the loopholes, sanctions will make apartheid less profitable and lend to the empowerment of the black majority. It is an investment in the future of the people of South Africa, as well as our own future. For whether or not the government of South Africa likes it, there will be majority rule in South Africa someday. We are not only on the side of the angels when we fight apartheid, we are also on the winning side.

News from South Africa often makes the situation seem hopeless. We must therefore act quickly and decisively to increase the economic pressure before hopelessness leads to desperation and violence.

While it is true that the peaceful or violent restoration of a functional power balance in South Africa lies mainly with the South Africans, the United States as a world leader and a principal trading partner of South Africa cannot assume a neutral role. We cannot condone apartheid; we must condemn it at every turn. Ridding South Africa of apartheid will take more than rhetoric, it will take well thought out action. Our actions now will determine the U.S. relationship with the future South Africa, which will be governed by a black majority.

Economic sanctions seem to be the most responsible action that the U.S. can attempt. Our colleagues Ron Dellums, Howard Wolpe, Bill Gray, and others, helped construct the first U.S. sanctions against South Africa. With the Anti-Apartheid Act Amendments of 1988, the U.S. policy towards South Africa will be firm, conducive to peace, comprehensive, and non-ambiguous. These amendments incorporate the strengths of Ron Dellums bill, H.R. 1580 and expand the Anti-Apartheid Act of 1986 for which so many of us labored.

Some argue that sanctions will hurt the black majority more than the white minority. Within the above mentioned amendments funds are provided to protect those disadvantaged by apartheid, thereby decreasing the financial hardships some blacks might suffer because of sanctions. It is certain that they stand a greater chance of suffering if apartheid is abetted by continued normal trading practices.

The Anti-Apartheid Act Amendments of 1988 are worthy of support and should become part of an effective U.S. policy against apartheid.

STATEMENT OF
CHAS W. FREEMAN, JR.
DEPUTY ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS

BEFORE THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
JUNE 2, 1988

Mr. Chairman,

I appreciate the opportunity to testify today on the Administration's views on sanctions against South Africa and, in particular, the sweeping new measures, including mandatory disinvestment, contained in H.R. 1580, as reported out of the Committee on Foreign Affairs.

The Administration is unalterably opposed to further punitive economic sanctions against South Africa, especially the extreme measures in H.R. 1580.

Apartheid cannot be impoverished out of existence. A badly deteriorating economy, which must also support the eighty percent of the population oppressed by apartheid, is much more likely to spiral downward to unrestrained violence and tragic polarization. The thesis that economic pain translates into political and social reform is contradicted by our experience to date. Rather, the record shows, such pain diminishes the willingness of white South Africans to accommodate black demands, while weakening black economic and other bargaining power. Apartheid and racism do not rest on efficiency or on concepts of economic rationality. There has always been an economic penalty associated with apartheid; the proposed new sanctions would raise it slightly at the expense of black South Africans, U.S. influence in South Africa, and jobs for American workers in export industries.

Since the imposition of harsh American sanctions in 1986, Pretoria has taken a defiant attitude toward both internal and external pressures, rather than bowing to them and instituting meaningful reforms. Since late 1986, the South African Government has:

-- Prolonged the State of Emergency imposed in June 1986, even though the internal violence that it sought to end has to a large extent been quelled.

-- In February 1988, barred 17 major peaceful opposition groups (including the major umbrella group, the United Democratic Front) from carrying out their activities. Political activity by the major trade union, COSATU, was banned at the same time.

-- Threatened to end all foreign funding of so-called "political activities" designed to assist the victims of apartheid in South Africa.

-- Tightened press restrictions, closed one major opposition newspaper, and threatened to shut down other publications.

-- Continued to engage in cross-border raids, notably in Mozambique, Botswana, Swaziland, Lesotho, and Zimbabwe.

As indicated, the impact of our sanctions on white politics is clearly negative, as they have fostered defiance, stiffened resistance to foreign influence, and helped to catalogue a shift to the right. The immediate effect on black political life was to give it a "psychological lift", and to undercut the South African Government's prestige. This positive effect is important. But, beyond this, what have sanctions accomplished for blacks?

Sanctions have led to increased concentration of political and economic power in white hands. They have reduced the ability of the outside world and moderates in South Africa to support black interests. They have cost South African blacks thousands of jobs and helped to close avenues of black advancement. And they have led already to increased political polarization, putting severe pressure on the groups supporting non-violent change. Today, there are fewer -- not more -- resources available to black and multiracial institutions in South Africa seeking fundamental change away from apartheid.

For these reasons, we are convinced that further punitive economic sanctions would only set back the process of badly needed reform. H.R. 1580 would exacerbate the already negative situation in South Africa. The provisions specifically targetted at American investment are among the most counterproductive sections of the proposed legislation.

Disinvestment weakens American influence and slows the process of change in South Africa. The American business community has set an example in South Africa in improving workplace conditions, enhancing career opportunities, promoting community relations, and contributing to housing, health, and education projects. U.S. business has also vigorously pursued a continuing dialogue with the South African Government, sometimes in outright confrontation.

During the past decade, U.S. companies have spent \$200 million on social responsibility programs in South Africa, including financial aid for employee housing and educational scholarships, assistance to detained employees, managerial training and other "affirmative action" programs. As U.S. companies have left, these programs have often disappeared under new white South African management. A longer-term result could be the weakening of black unions, as well as black managers, whose position and prospects have already been eroded.

Disinvestment to date has had unintended and profoundly negative consequences in terms of its objective of speeding the end of apartheid. Many white-owned South African companies have reaped windfall gains by buying departing firms' assets at firesale prices. The economic losses that mandatory disinvestment would inflict on U.S. firms would be nothing

short of confiscatory; the beneficiaries will not be U.S. taxpayers or black South Africans, but the white power structure in South Africa. The South African press has already reported extensively on the creation of a new class of white South African millionaires through canny disinvestment-related purchases. The resulting concentration of wealth in white hands has enlarged the economic gap between the races. At present, black South Africans control only a minute fraction of the country's physical capacity and share equity. It is ironic indeed that U.S. policy should work to reduce this further.

While all black South Africans want the U.S. to speak out clearly against apartheid, there is little evidence that the majority of black South Africans favor withdrawal of U.S. businesses. Indeed, many black activists have privately expressed to us strong misgivings over the pullout of foreign firms. Others have spoken out publicly and testified before subcommittees of the House against the course set by the bill before you. Despite public rhetoric, there have been no strikes or other job actions by South African workers calling for disinvestment, while several strikes have been called to protest such decisions.

The Treasury Department can better testify on the specific problems of implementation and enforcement of the mandatory

disinvestment provisions contained in H.R. 1580. I wish to note, however, that unilaterally mandated disinvestment could well lead to serious disputes with our OECD partners and other nations, especially in times of growing global economic interdependence. We have already received indications that we may expect strong protests against the extraterritorial application of certain aspects of the bill before you. The Administration regrets that the effect of this legislation is likely to be division among Western countries in the struggle to help South Africans to end apartheid, rather than to promote the unified Western approach to this issue that we should seek.

**PREPARED STATEMENT OF R. RICHARD NEWCOMB
DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL
DEPARTMENT OF THE TREASURY**

before the

**COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.**

June 2, 1988

The South African Sanctions Program and H.R. 1580

Thank you Mr. Chairman and Members of the Committee:

Good morning. My name is Richard Newcomb. I direct the Office of Foreign Assets Control at Treasury. With me is William J. McFadden, Deputy Director of the Office of International Banking and Portfolio Investment. It is a pleasure to testify before the Committee on the South African Sanctions Program currently in force and on H.R. 1580, the Comprehensive Anti-Apartheid Amendments of 1988, as reported by the Committee on Foreign Affairs. The Treasury Department strongly opposes this Bill.

Foreign Assets Control ("FAC") is the office within Treasury responsible for implementing the import, financial, and new investment prohibitions of the Comprehensive Anti-Apartheid Act of 1986 (the "Act"). I would like to give you a brief overview of our implementation of the Act's provisions in which the Committee has expressed an interest, and then to comment on the impact Treasury believes H.R. 1580 would have on U.S. financial

institutions and corporations, and on the U.S. economy as a whole.

The Department of Treasury is responsible for implementing the Act's import prohibitions on such things as South African gold coins, agricultural products and food, iron and steel, sugar, uranium ore, uranium oxide, coal, textiles, and products from parastatal organizations (i.e., organizations owned or controlled by the Government of South Africa), and the prohibitions against loans and new investment. FAC coordinates and oversees the activities of Treasury pursuant to the Act. In enforcing the Act's import prohibitions, FAC is supported by the U.S. Customs Service.

FAC's experience in sanctions enforcement dates back to the period prior to U.S. entry into World War II. Today, in addition to the South African sanctions program, we have eight other programs in place against North Korea (since 1950), Cuba (since 1963), Vietnam (since 1964), Kampuchea (since 1975), Nicaragua (since 1985), Libya (since 1986), Iran, first in 1979 and a second time in 1987, and now against Panama, pursuant to sanctions imposed by President Reagan on April 8.

The Act prohibitions on the importation of krugerrands and on lending to the South African Government closely followed those in the pre-existing Executive Order sanctions adopted in the autumn of 1985. The Act and its legislative history indicated

that the Senate Foreign Relations Committee staff was guided by existing Treasury regulations and interpretations in drafting the krugerrand and government loan prohibitions of the Act and directed that we continue existing practice where not inconsistent with the Act's language. Section 301 of the Act expanded the krugerrand ban to include all South African gold coins, in the event other gold coins are minted in the future. With that note, thus, FAC and Customs Service enforcement of the gold coin import prohibition was already in place on the Act's effective date. Similarly, the prohibition on new lending to the South African Government and its controlled entities had been fully implemented in 1985.

Enforcement of the current South African sanctions program as mandated by the Act is among the highest priorities of FAC and the Customs Service. Customs currently has 15 on-going investigations and has instituted several penalty actions against importers who have attempted to circumvent the South African import prohibitions.

We will continue to work with Customs in pursuing these cases both civilly and criminally, as appropriate, to the full extent of the law.

Upon passage of the Act, FAC, in cooperation with bank supervisory agencies, contacted all banks known to hold accounts of the South African Government and its controlled

entities, to inform the banks of the prohibition on accepting or holding such accounts under section 308 of the Act. FAC implemented the exception permitting diplomatic and consular accounts by issuing specific licenses to cover each such account in the United States.

Section 310 of the Act, which contains the prohibitions against loans and new investments, requires that "no national of the United States may directly or through another person, make any new investment in South Africa." (22 U.S.C. 5060). "New investment" is defined as "a commitment or contribution of funds or other assets" and "a loan or other extension of credit." (22 U.S.C. 5001). Under these provisions, a disinvesting U.S. parent corporation may not extend credit to corporations or individuals in South Africa (other than firms owned exclusively by black South Africans) to facilitate their purchase of its South African subsidiary nor contribute or lend working capital to its South African subsidiary unless it is necessary to enable it to operate in an economically sound manner without expanding its operations.

In order to monitor compliance with the prohibitions against loans and new investments, we have worked closely with all U.S. companies operating in South Africa and have advised them in writing of the Act's requirements. The Act does not require or encourage disinvestment from South Africa. Nonetheless, state

and local procurement and investment laws and the Act have that effect.

Of the approximately 250 U.S. companies with which we have corresponded, approximately one-half have already disinvested or are in the process of disinvesting. The divestment strategies of the vast majority of companies clearly have not violated the Act; however, we are now examining a few transactions which have involved deferred payment or other extensions of credit in South Africa.

Although we consider it too early to determine the full impact of the Act, it has been clear from our communication with these companies that the Act's restrictions have forced those U.S. companies still present in South Africa to operate under serious financial constraint. As a result, many have been forced to disinvest, often under sales terms extremely unfavorable to the U.S. seller. Moreover, U.S. companies do not appear to be interested in making any new investments in South Africa even where it is permitted; not one registration for a new venture has been filed with our Office pursuant to the Act's exception for investment in firms owned by black South Africans.

We are also taking steps to insure that brokerage houses, stock exchanges, and U.S. securities dealers are on written notice

about the Act's restrictions on investment in South African securities. Generally, only trading in preenactment (pre-October 2, 1986) securities, including American Depository Receipts evidencing preenactment issues, is permitted. We have also advised banks of the Act's prohibitions on loans and other extensions of credit to the South African Government or its controlled entities (effective November 11, 1985 under sanctions which pre-dated the Act) or to any person or entity in South Africa. We are working with bank supervisory agencies to ensure compliance in this area.

Let me now turn to the provisions of H.R. 1580, as reported by the Committee on Foreign Affairs. The Treasury Department is strongly opposed to this Bill. Of particular concern to us are the provisions requiring, first, the forced divestiture of U.S. interests in South Africa; second, termination of any flexibility of U.S. banks in collecting on existing loans; third, the embargoing of most trade transactions with South Africa; and fourth, the extraterritorial extension of the investment and export prohibitions to foreign nationals outside the United States.

The Bill requires U.S. nationals, within a period of six months, to divest themselves of any "investment in South Africa." "Investment in South Africa" is defined to include equity interests, capital contributions, loans made before April 20, 1988, and an undefined concept called "control of a

South African entity" where no equity, loan, or capital interest is involved. It is unclear, but "control" may even cover such things as contracts for management services or trademark licenses essential to the success of a business. We are dealing here with a definition of "investment" that bears no relationship to the normal use of that term in the business and financial communities.

The clear impact of the requirement for forced divestiture is the immediate and irreversible loss of value of assets held by U.S. investors and corporations. Treasury has in the past and will continue to oppose this proposal. Forced disinvestment runs counter to this Administration's policy that international capital markets and foreign investment remain free of controls. For U.S. investors holding South African securities, changing the rules established in the 1986 Act guarantees that the market value of their investments will plunge over the six-month grace period. Many American portfolio investors own pre-enactment shares in South African entities. These could involve investments of U.S. mutual funds. I cannot quantify the amount, but the value of these investments would also suffer as a result of the legislation.

On the corporate side, disinvestment will lead to a loss of job opportunities in South Africa, the possible demise of enlightened, non-discriminatory labor policies followed by U.S. companies as required by the Comprehensive Anti-Apartheid Act,

and windfall gains for South African companies. American companies will be lucky to receive any reasonable offers for assets with a six-month deadline for divestiture. Why would South Africans or purchasers of any nationality pay fair value for assets when they know their would-be sellers must divest at any price within weeks to comply with U.S. law? Further, South African exchange controls will create additional losses as U.S. companies convert their proceeds into U.S. dollars at the lower "financial rand" exchange rate. Such intended injury to the U.S. parent companies arising from forced divestiture may constitute a compensable taking of property under the Fifth Amendment to the Constitution.

What will be the practical impact of this move for the South African economy beyond a reduction in job opportunities? Perhaps black workers will be able to finance the purchase of their U.S.-controlled employers. However, past experience indicates that the more likely scenario is that businesses will be acquired by white South African interests on terms very advantageous to those investors. Unfortunately, the Bill's call for negotiations with worker representatives cannot arm the workers with sufficient economic power to finance purchases of U.S. assets in South Africa. Nor does the Bill continue even the limited exception in the present Act which authorizes investment in firms owned by black South Africans, so that acquisition loans to workers' representatives would not be possible. H.R. 1580 is, therefore, likely to lead to further

concentration of economic power in white hands, and at firesale prices.

The second aspect of the disinvestment provision in H.R. 1580 I wish to address is the proposal to and U.S. lenders' ability to reschedule loans made in South Africa prior to the 1986 Act. The present Act and its legislative history permits such rescheduling to avoid injury to U.S. lenders caught in the South African Government's 1985 debt moratorium measures, which limit the repatriation of hard currency loan proceeds, and which permit the South African Government to substitute itself for private sector borrowers on such loans.

The Bill would terminate this protection for U.S. lenders, and require that loans made under agreements reached prior to April 20, 1988, be repaid strictly in accordance with their existing terms. If not, the loans would be treated as prohibited investments in South Africa, and subject to the mandatory divestment provision. As noted, South African law permits the government to substitute itself as the borrower on existing hard currency loans. Such a substitution is treated as a rescheduling under the present Act, in accordance with its legislative history. This gives the South African Government the unilateral ability to trigger a divestiture requirement on outstanding U.S. loans. The loans would have to be either sold, probably at firesale prices, or otherwise divested.

Thus, U.S. banks, in effect, would be forced to provide debt relief to South Africa and subsidies to those who purchase the claims at the discounted price. They would lose all leverage in seeking repayment, without any corresponding damage to the South African borrower.

The losses to the banking community could be substantial and they would be concentrated in the nine money center banks. Although the level of exposure has been declining in recent years, it remains very substantial at \$2.8B. Of that total, \$2.2B is owed to the money center institutions or about 3.5% of their capital. As this Committee knows, there is strong regulatory and market pressure on these banks to increase capital. The proposed Bill would undercut that effort.

Third, H.R. 1580 requires a virtual trade ban on South Africa. The loss of existing contracts to U.S. exporters and importers, and the immediate need to replace supply sources and export markets, might cause severe dislocations and bring higher prices in key U.S. economic sectors. South Africa does not have to rely on U.S. exports given the foreign availability of the majority of goods traded by U.S. exporters. Thus, we believe the major direct impact of this sanction would fall on U.S. exporters, importers, and consumers, and on black employment in South African export industries. An indirect impact arises from the bill's proposed coverage of exports and reexports to South Africa from third-country producers that

manufacture under U.S.-granted technology licenses. This provision will make the United States less attractive as a export trading partner, and is likely to reduce U.S. exports of goods and technology to third countries.

Finally, the extraterritorial application of the proposed disinvestment requirement will cause intense diplomatic friction, and potential third-country retaliation against the United States. This result would arise because the Bill enunciates a disinvestment policy for assets owned, not only by U.S. corporations, but by third-country entities that are owned or controlled by U.S. nationals. The breadth of this extraterritorial assertion of U.S. jurisdiction has previously been reserved for wartime conditions in sanctions programs adopted pursuant to the Trading with the Enemy Act. And even in wartime, the United States has not required its own nationals to divest themselves of foreign investments, but has focussed on the U.S. holdings of enemy countries.

To summarize Treasury's opposition to H.R. 1580, it would do more harm than good for U.S. interests whether viewed from an economic or foreign policy perspective. We believe the disinvestment requirement's main economic impact in South Africa will fall on employment opportunities for black South Africans, while fostering greater concentration of economic power in the hands of white South Africans. The major effects on U.S. financial institutions will be to reduce their

bergaining power ~~via a~~ ~~via~~ South African borrowers on existing loans, and force banks to incur substantial losses on their claims. The likely impact on the U.S. economy generally is a degree of economic dislocation for investore and for corporations with holdings in, or with service contracts, licensing or management agreemants, or long-term import or export contracts with, South Africa. Mr. McFedden and I will be pleased to respond to the Committee's questions.

PREPARED STATEMENT OF CECILIE COUNTS BLAKEY
POLITICAL DIRECTOR
TRANSAFRICA

BEFORE THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
JUNE 2, 1988

(1)

As Political Director of TransAfrica, I am pleased to have the opportunity to testify in support of H.R. 1580, as amended by the House Foreign Affairs Committee. Now entitled the "Anti-Apartheid Act Amendments of 1988", H.R. 1580 seeks to strengthen the sanctions enacted by Congress through P.L. 99-440, the "Comprehensive Anti-Apartheid Act of 1986". Approval of H.R. 1580 by the House Banking, Finance, and Urban Affairs Committee would send a necessary and powerful signal to South Africa and to all those who presently conduct business with the apartheid regime.

Though recognizing the very limited nature of the sanctions imposed through PL.99-440, opponents of apartheid were heartened by its passage. However, regulations subsequently promulgated by Executive Branch agencies have rendered key provisions of the bill virtually ineffective, or have created loopholes which can be easily exploited. For example, Title III, Section 305 of PL.99-440 bans loans or other extensions of credit to the South African government. However the relevant regulation, 31 CFR Section 545.304, defines "loan" as "the purchase by a financial institution in the United States of debt securities issued by the Republic of South Africa after October 1, 1986...." The regulatory definition would seemingly allow such securities to be purchased by any foreign branch of a U.S financial institution.

Another illustration of this problem can be found in the implementing

(2)

regulations for Sections 3 (3)(b)(i) and 310 of Title VI, which exempt "normal short-term trade financing" from the ban on loans and new investment. While normal business practice frequently limits short-term trade financing to 60-90 days, and ordinarily does not exceed six months, 31 CFR Section 545.304(b) defines the term "short-term trade financing" as including indebtedness of up to one year. Comparable examples of this problem can be found by contrasting the regulatory exclusion of ferroalloys from the statutory ban of South African iron, steel, or iron ore imports.

Even if every provision of the 1986 Comprehensive Anti-Apartheid had been implemented faithfully by the administration, there would still be a need to strengthen existing law. The existing sanctions apply only incremental, selective sanctions to South Africa—allowing that government to adjust its economic strategy and prepare new evasive tactics. The Section 310 prohibition on new investment has had little impact, since the South African government receives \$200 million dollars in corporate taxes alone from U.S. corporations. Current U.S. and Western sanctions cover only eight percent of South African imports, and allow continued opportunities for advanced technological transfers to the apartheid state apparatus.

The limited and circumventable sanctions passed by Congress against South Africa need reinforcement, and the Anti-Apartheid Act Amendments of 1988 would do just that. As amended by the House Foreign Affairs Committee, H.R. 1580 would close existing loopholes; require U.S. pursuit of international agreements toward multilateral sanctions; and mandate Presidential action against foreign companies that attempt to

(3)

take commercial advantage of legislated sanctions. It would enact six important new sanctions against the apartheid system; and would make the implementation of a democratic transition to independence for Namibia an additional condition for lifting the sanctions package.

The April 28, 1988 edition of the Wall Street Journal reported that the South Africa Coalition Lobby-P.R. Project is currently paying the law firm of former Senator Birch Bayh \$25,000 a month to lobby against ++the measure this committee is considering today. Spokesmen for Chevron and Union Carbide acknowledged contributing \$5,000 each to this project, sponsored by the National Foreign Trade Council. Other firms said to be actively involved include Caterpillar, Johnson & Johnson, Mobil, and Texaco. Unfortunately, leading representatives of the many South African organizations which support the measures contained in this legislation have either been detained or effectively banned by the apartheid government. We urge you to remember those who have been silenced, and to vote in support of H.R. 1580, the Anti-Apartheid Act Amendments of 1988.

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May 31, 1988

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(202) 225-4247

The Honorable James A. Baker III
 Secretary of the Treasury
 15th Street and Pennsylvania Avenue, N.W.
 Washington, D.C. 20220

Dear Mr. Secretary:

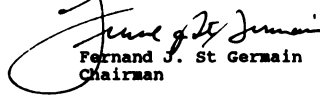
The Committee on Banking, Finance and Urban Affairs will hold a hearing on H.R. 1580, a bill to prohibit investment in, and certain other activities with respect to, South Africa. Confirming discussions with our respective staffs, the Committee invites you or your designee to appear and testify on Thursday June 2, 1988, at 10:00 a.m. in Room 2128 of the Rayburn Building.

As you are aware, H.R. 1580 would repeal the Comprehensive Anti-Apartheid Act of 1986. The Committee asks that you explain the actions taken by the Department of the Treasury to help bring an end to apartheid in South Africa as called for in the Comprehensive Anti-Apartheid Act of 1986, particularly actions taken pursuant to the provisions of sections 204, 301, 305, 308, and 310 of the Act. The Committee would like you to address the provisions in H.R. 1580, both as introduced and as amended by the Committee on Foreign Affairs, which would prohibit a United States person from making or holding any investment in South Africa. Please address the expected effects of the investment prohibition on South Africa as well as the expected effects on United States financial institutions and the United States economy, generally.

In accordance with Committee rules, please deliver 200 copies of your prepared statement or that of your designee to Room 2129 Rayburn House Office Building, Washington, D.C. 20515 by June 1, 1988 at 5:00 p.m. The statement in its entirety will be included in the hearing record and, if delivered when requested, will be made available to all Committee members in advance of the hearing. Due to the size of the Committee and in an effort to provide all members with sufficient time for

questioning, please limit the total time of your oral presentation or that of your designee to 5 minutes.

Sincerely,



Fernand J. St Germain
Chairman

FJStG:pPw

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202 225-4247

The Honorable George P. Schultz
 Secretary of State
 2201 C Street N.W.
 Washington, D.C. 20520

Dear Mr. Secretary:

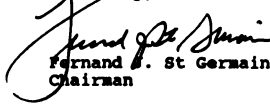
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FJStG:pPw

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DDJ 226-4247

Mr. Randall Robinson
 Executive Director-TransAfrica
 545 Eighth Street, S.E.
 Washington, D.C. 20003

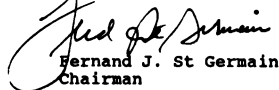
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As you are aware, H.R. 1580 would repeal the Comprehensive Anti-Apartheid Act of 1986. The Committee asks that you discuss the effect of the "constructive engagement" policy articulated in the Comprehensive Anti-Apartheid Act of 1986 in bringing about an end to apartheid. The Committee would like you to address the provisions in H.R. 1580, both as introduced and as amended by the Committee on Foreign Affairs, which prohibit a United States person from making or holding any investment in South Africa.

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Sincerely,


 Fernand J. St Germain
 Chairman

FJStG:pPw

SOUTH AFRICA: The Case for Sanctions
BY HOWARD WOLPE, CHAIRMAN
SUBCOMMITTEE ON AFRICA
MAY 12, 1988

There is a terrible tragedy in the making in South Africa. A blood-bath looms -- and all of us are threatened by its consequences. The human costs of a prolonged and violent struggle in South Africa are incalculable both in terms of treasure and of lives -- black and white -- that it will consume. And the struggle for liberation in South Africa will increasingly affect the United States and the Western World. We cannot run and we cannot hide from the struggle or its consequences. All of our rationalizations for inaction will ring increasingly hollow and will only fuel racial division and conflict in America and throughout the world. For it is the doctrine of white supremacy -- of racism -- that provides the only reason and justification for the apartheid regime. People of color understand that very clearly -- whether they live in America, in Africa, or elsewhere. And they also see through -- just as clearly -- all of the subterfuges that are devised to rationalize the accommodation that the United States, the Western World, and -- in its cartel-like relationship with the South African diamond industry -- even the Soviet Union has made with the apartheid regime.

The simple truth of the matter is that apartheid exists because it is enormously profitable to South Africa's ruling white minority. All of the elements of the apartheid system contribute to one objective: the preservation of white minority privilege. In an important sense,

South African society operates as one vast slave plantation. Blacks have little control over their own destinies. They cannot freely determine neither where they live nor the conditions under which they work. They have no importance to the white minority except as a pool of cheap labor required to keep South African mines and economy going and the white minority prospering.

That is why anti-sanctions advertisements such as the one sponsored by the South African Business Council that appeared recently in the Washington Post -- in which a picture of a zebra was presented with a caption that read, "Shoot it in the White and the Black dies with it," -- can only be characterized as obscene. What that ad reveals is that some of the principal beneficiaries of apartheid, the white South African business interests for whom apartheid has been so enormously profitable, are hiding behind the victims of apartheid in their effort to resist stronger economic sanctions and to preserve their profits.

Those who call for new sanctions against South Africa are not unaware that such measures as a trade embargo and disinvestment will affect South Africa's black majority. Clearly increased economic pressure against apartheid will mean economic costs for the black population. But, as Bishop Tutu, Rev. Boesak, and key South African trade union leaders have repeatedly stated, the short-term costs of economic sanctions will be far less than the long-term costs -- in terms not only of economic hardship but of loss of lives -- of a protracted violent liberation struggle. And the only way that this kind of struggle can be averted is by a decision of the white minority to abandon apartheid and to negotiate with the black majority the

transition to a new and democratic political order.

Whatever the costs of sanctions to the black majority, the costs to the privileged white minority will be far greater — and it is precisely for this reason that the South African government and business community are so determined to defeat this effort to impose new sanctions. The harsh reality is that no regime — in the history of the world — has ever voluntarily relinquished power, and there is no reason to believe that the white minority of South Africa is somehow unique in this respect. The current regime will give up its monopoly of power — will abandon apartheid and sit down to negotiate a new democratic political system with the country's black majority — only when it concludes it has more to lose than to gain by trying to hold on to the apartheid system. Anything we in the United States or the international community do that signals to the white minority that it can continue to operate as a totalitarian, repressive state without fundamental economic costs and deepening international isolation will only prolong the struggle. That, in turn, will mean increased polarization inside South Africa, much greater violence and bloodshed, and far greater risks for the United States and the Western world. We have vital interests in southern Africa, and widening regional conflict and instability will imperil those interests. That is why we need now, rather than later, to do everything we can to help create the conditions for regional peace and stability.

One argument that is often advanced by the opponents of sanctions is that there is no certainty that the end of apartheid will mean the beginning of democracy in South Africa, that it could just as easily herald the emergence of a radical and equally repressive black regime.

To this it must be said that there are no guarantees as to the future. A new dictatorship could in fact succeed the current dictatorship. But surely that possibility does not justify our accommodation to the tyranny of the moment. Moreover, it is clear that the more prolonged the struggle to topple the apartheid regime the more violent and polarized the conflict will become, and the less likely it will be that we will see the emergence, in a post-apartheid South Africa, of a multi-racial and democratic political system. We simply cannot have it both ways: we cannot bemoan the spread of Communist or other radical influences within the liberation movements of southern Africa and then be unwilling to identify the United States, unambiguously, with these liberation struggles.

It is not that sanctions will in and of themselves bring down apartheid — they will not, and we ought to have no illusions on that score — but they will increase significantly the costs the white minority regime must bear for its repression and its inhumanity. And those external costs will reinforce the internal pressures that have been building within South Africa for many years. As a group of British Commonwealth leaders observed not long ago, the failure to enforce much tougher sanctions will only bolster the apartheid regime in its determination to hold on to its monopoly of power indefinitely.

There are elements of America's corporate community that have come together this year to aggressively resist the imposition of new sanctions. Clearly, American business opposition to sanctions has a variety of motivations. For some it is a matter simply of dollars and cents. After all, American investment in South Africa, while exceedingly small in dollar amount and as a percentage of overall

American foreign investment, has at times been enormously profitable. Indeed, from 1970-1980, foreign companies averaged a 15% per year return on their investment in South Africa.

It is not easy to ask American's business leaders to forego this kind of profitability and to make the economic sacrifices that would be enforced under a trade embargo and disinvestment. And we would not be making this imposition were it not clear that American national interests required it. We all wish there were a way to raise the costs to the South African regime that did not also involve costs for the American business community, just as we wish it were possible to avoid collateral costs for South Africa's black majority. But there is simply no cost-free means of adding to the pressure on the South Africa regime — anymore than there was a cost-free means of bringing pressure to bear on the Soviet Union, or Poland, or Libya, or — most recently — Panama. It should be noted, however, that the costs to American business of disinvestment and a South African trade embargo will be relatively quite small. This is, very simply, because direct American investment in South Africa has already declined from a high of \$2.6 billion in 1984 to little more than \$1 billion. Since 1983, 160 American companies have withdrawn from South Africa and more corporate withdrawals are anticipated. Likewise, the volume of American-South African trade has declined almost 50% since 1984:: U.S. exports to South Africa in 1987 totaled \$1.25 billion while imports from South Africa amounted to \$1.35 billion.

But there are other corporate leaders whose opposition to sanctions is motivated not by profit consideration but by their genuine conviction that their presence in South Africa represents a

constructive force for change. These corporate leaders feel a deep sense of loyalty to their South African employees, and fear that disinvestment will cause great hardship — particularly to their black workers. They argue that the increased repression in South Africa is evidence of the failure of economic sanctions, that the United States and the international community should "back off," and that the American business community should stay involved in South Africa and seek to work for change from within.

The arguments made by this latter group of sanctions opponents cannot be casually dismissed. There is no question that several (though by no means all) American firms have had exemplary records of corporate behavior in South Africa. They have provided South Africa with a new and positive model of labor-management relations. They have desegregated their workplaces. They have instituted aggressive management training programs for blacks. They have made significant social investments in such areas as education and housing. They have, in short, improved the lives of their South African black employees.

The plain truth, however, is that very few blacks have actually been beneficiaries of these benefits. Indeed, in 1986, no more than 48,000 non-whites (Blacks, Coloreds and Asians together) — **less than one-half of 1% of the South African non-white labor force** — were employed by all American firms combined. The overwhelming majority of black South Africans face a very different and much harsher reality — a reality that has 3.3 million unemployed black workers and a 30%-plus unemployment rate; that denies citizenship to 7 million residents of so-called "independent" homelands; that involves daily confrontations with a brutal and dehumanizing totalitarian police state; that

tolerates forced removals of so-called "black spots" from white residential areas and the routine separation of families; that has produced violent deaths in the thousands; and that accepts rates of infant mortality that exceed those in many much poorer African states.

Moreover, even the benefits that flow to the few workers in American firms will be for naught if the South African regime cannot be brought very quickly to abandon apartheid and to seek a negotiated political settlement. Not only will the jobs of the black employees be placed in jeopardy by the widening conflict and violence, but so will their lives.

Unhappily, American business investment in South Africa, at the same time that it conveys significant benefits to black employees, provides far greater rewards to the privileged white minority. The continuation of this investment — and of normal trading relations — helps to keep the white minority-dominated economy afloat (17% of South African investment is of foreign origin, and 53% of South Africa's gross national product is trade-dependent), and thereby reinforces the Afrikaaner regime's fantasy that their monopoly of power can be sustained indefinitely without serious cost. Again, that is why so many of South Africa's black leaders have concluded that continued Western investment in, and trade with, South Africa is only making a bad situation far worse and far more dangerous.

Many American corporations have withdrawn in recent years, some because the profitability of their companies in South Africa declined precipitously, others because of their concern about the domestic consequences of their continued involvement in South Africa, and still others because they concluded that their presence in South Africa was

doing more to sustain than to end apartheid. This voluntary disinvestment, together with the limited economic sanctions that have been imposed, has had a real impact on the South African economy and political system. Lest this be in doubt, listen to these words of Gerhart deKock, Governor of the South Africa Reserve Bank, who on September 11, 1987 stated,

"The basic underlying problems that threaten to isolate us from the rest of the world have not yet been solved. The outflow of capital, the emigration of skilled people, the large discount on the financial rand, and the decline in fixed and inventory investment, are all sending us messages that we should heed.

They are telling us that, whatever improvements we bring about in our short and long-term economic strategies, we must first and foremost convince both the outside world and ourselves that we are continuing on the road of peaceful and constitutional reform."

Indeed, South African leaders have repeatedly acknowledged the potential impact of any withdrawal of Western economic support. Thus, on April 21, 1986, President Botha criticized a Conservative Party parliamentarian, saying:

"He and his party will not buy our farmers products if we cannot export. Nor will they buy our minerals or our manufactured goods if a general boycott against us succeeds. And they will be powerless if this country's imports of a variety of goods is halted."

And there have been other ramifications as well. Who, for example, doubts that the recently opened dialogue between leading Afrikaaners and the ANC would have occurred were it not for the rapidly intensifying combination of internal and external pressures on the regime?

Finally, there has been the impact of American sanctions on black perceptions of the United States not only in South Africa, but throughout the African continent. Our own Ambassador to South Africa has made clear the value in this regard of the congressionally mandated sanctions effort. Before enactment of this law, most blacks had come to perceive the United States as an active accomplice of the South African regime. But with the passage of the Comprehensive Anti-Apartheid Act, over the President's veto, American credibility within South Africa's black community was substantially enhanced.

In short, even the limited sanctions currently in place have had a major positive impact. The intensified repression witnessed in recent months is the product not of a regime consolidating but of a regime unravelling. Increasingly unable to cope with rising dissent and protest, it is increasingly desperate, flailing about trying to find the means of restoring the regime's authority and control. One moment, it becomes even more violent and coercive. The next, it offers up a so-called "reform" proposal, hoping to coopt some of its black population and to seduce an international community that desperately wants to believe that the regime is committed to a process of fundamental change that will eventually see the voluntary end of white minority rule.

America's historic resistance to the application of sanctions against South Africa has been very costly. It is this resistance that has led so many to conclude that the United States is willing to accommodate itself to apartheid. This resistance to sanctions may therefore have unintentionally added substantially to the pain and hardship inflicted by apartheid on South Africa's black majority. At

the same time, it has produced a widespread perception that America has a racial double standard in its foreign policy — a perception that has undermined America's moral authority and political influence throughout that part of the world which is not white — which just happens to be most of the world. People of color — whether in Africa, Asia, or in Latin America — ask themselves (as should we) whether America would have resisted the application of sanctions for so long if the racial composition in South Africa had been reversed, and it had been a black minority imposing the horrendously dehumanizing apartheid system over a white majority. They note our enthusiasm for sanctions elsewhere in the world — such as those imposed against the Soviet Union, Cuba, Nicaragua, Libya, and most recently, Panama — and they find America's approach to South Africa terribly inconsistent. And they note how even our language is altered to describe the South African situation: for example, we see the frequent characterization of the ANC as comprised of "terrorists" instead of "freedom fighters." And they are bemused by the sudden emergence of Americans as the apostles of non-violence, when the United States has been hardly reluctant to support a military response in Afghanistan, in Nicaragua or in Libya. But perhaps the most telling commentary, in the eyes of these observers, is the frequent use by American opponents of sanctions of the argument that "sanctions will hurt the very people we seek to help" — as if the earlier applications of sanctions didn't hurt the Nicaraguans or the Panamanians or the Libyans. Indeed, what is startling is how unaware we Americans often are of our inconsistency, or of the unconscious biases that impair our objectivity and result in flawed policy, policy

that does violence to both American values and American national interests.

Nowhere is the loss of objectivity more apparent than in our failure to recognize the extent to which the conflict and instability generated by apartheid threatens American interests not only in South Africa itself but throughout the region of southern Africa. For the desperately insecure Afrikaaner regime, refusing to come to terms with the need for fundamental internal reform, seeks to protect itself by waging unrelenting war against what it perceives to be an external threat. This has led South Africa to become a rogue terrorist state, operating with callous disregard for international law or international opinion: South Africa continues to defy the United Nations (and the United States) in maintaining its illegal occupation of Namibia; it has invaded Angola with a force of several thousand; it has launched brutal raids into Botswana, Lesotho, Swaziland and Mozambique; it has attempted to destabilize Zimbabwe and to overthrow the government of the Seychelles; and it has armed and supported brutal dissident groups in Mozambique and Angola. South Africa has, in short, become the principal source of regional conflict and instability, thereby imperiling vital Western economic and political interests and raising the dangers of continuing superpower rivalry and confrontation within southern Africa.

The last argument frequently advanced by sanctions opponents is that, if sanctions are imposed unilaterally by the United States, the Europeans and Japanese will move into the breach created by the departure of American firms from South Africa and by the closing down of American-South African trade. Clearly, multilateral sanctions

are preferable to unilaterally imposed sanctions and should be our ultimate policy objective. But to create that possibility, we need first to demonstrate the will to act on our own. Unless we are willing to do so, we are scarcely able to lead the rest of the Western world in a concerted multilateral sanctions effort. In fact, in the last three years, American leadership has played a major part in the decisions of several countries to impose limited sanctions against South Africa.

Finally, it must be emphasized that American action, even if taken alone, can have major impact on South Africa. This is because the apartheid regime continues to look to the United States and Great Britain as the ultimate guarantors of apartheid, as the two countries most likely to resist effective action against the apartheid minority regime. That may not have been our intention these past several years. But that has been the clear consequence of the continuing contradiction between our rhetorical condemnations of apartheid and our acceptance of a "business as usual" posture toward South Africa. It is time to bring our rhetoric and our policy into synch. It is time that America truly commit itself to the struggle against apartheid. It is not only American values that are at stake. It is also a question of American national interests in all of Africa.



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